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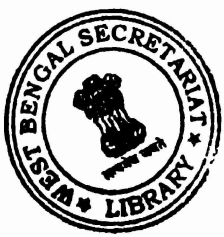
A Few notes on
a recent trial
illustrative of
mofussil Judicature
Year; 1859
Sub: Judicial
Administration/
Trial

~~Place:~~



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FEW NOTES ON A RECENT TRIAL, 1859.

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A FEW NOTES

ON

A RECENT TRIAL

ILLUSTRATIVE OF

MOFUSSIL JUDICATURE.

AFTER having been subjected to a prosecution protracted for seven months, during which period my ordinary occupations were, in consequence, almost totally suspended,—after being put to expense, which to a man of ordinary means would have proved almost ruinous,—after suffering some weeks' imprisonment, I have been declared by the highest Criminal Court of the Realm innocent of all laid to my charge.

It strikes me that it may not be without profit to lay before the public a narrative of the proceedings which have caused me so much suffering. Possibly it may be deemed suggestive of some reform in those courts which have been the scene of the transactions to which it relates, and which, exercising functions as well executive as judicial, possess powers which my case shows may be used to work much oppression. It also discloses a somewhat curious anomaly, that whereas in other countries wealth is supposed in some degree to protect its possessor from wrong, here it operates to prevent him from obtaining that measure of justice which is considered the due of poorer individuals.

The ryots of my estate of Bullootee in the Thannah Doomjoor, Zillah Howrah, leagued themselves together in a conspiracy or dhurmoghut with the avowed object of opposing and

injuring me by every means within their power. I have every reason to suspect, though it might be impossible to prove judicially, that a powerful neighboring zemindar, with whom I have long been on bad terms, was behind the scenes. In furtherance of the object of the conspiracy one of the associated ryots, by name Muddon Dey, on the 8th of January 1858 presented a petition to Mr. Grey, the magistrate of Howrah, stating his apprehension that my gomastah of Bullootee (Judoonauth Moozoomdar) would take forcible means to extort a *chout*, or fourth part, of the purchase money of a house said to have been a short time previously sold by the petitioner, and prayed for protection. On this the magistrate ordered the darogah of Doomjoor to take such measures for preserving the peace as might appear to him proper. The darogah, without making any enquiry, required both the gomastah and the complainant to enter into a muchulka or recognizance to keep the peace.

The same Muddon on the 15th of January again complained to the magistrate, that in consequence of the darogah having taken the muchulka from the gomastah, the talookdar, meaning myself, had become very angry, and had ordered the gomastah to plunder Muddon's house and to arrest Muddon himself ; and that, in pursuance of that order, the gomastah had assembled lateeals (club-men) in different places on his estate. Upon this the magistrate issued orders, directing the darogah, if he should find that there was probability of the peace being broken, to send the complainant to give an ijahar (statement) and to send the gomastah and nudgees or lateeals to give muchulkas before the magistrate.

The darogah accordingly sent both parties on the 27th January before the assistant magistrate at Howrah, who, without hearing any evidence, took a muchulka or recognizance from the gomastah, the naib gomastah, and one nudgee and three pykes, in 500 Rupees each.

The gomastah and others appealed to the sessions judge from the order of the assistant magistrate, but the judge upheld the order.

On the 16th January 1858 the gomastah, Judoonauth, presented a petition to the magistrate, in which he represented that he had never demanded any *chout* from Muddon Dey, nor used any threats towards him; but that a large amount of rent was due from Muddon, with a view to avoid the payment of which he was playing off these tricks, and prayed that Muddon might be punished for having brought a false complaint. The magistrate forwarded this petition to the darogah, and directed him, if necessary, to send in Muddon to give a muchulka.

On the 20th January Muddon Dey complained, during the absence of the darogah, to the jemadar of the thannah, that the gomastah of Kristopore, a neighboring village, had under the pretext of levying a distraint under Regulation XX. in the name of Goluk Ghose and Kalikristo Napit plundered his property. The jemadar noted this complaint in the thannah daily book.

On the 22nd January 1858 Muddon again appeared before the magistrate, and complained that the gomastah, Judoo Moozoomdar, with several other persons had carried off his property to the amount of 1,000 Rupees from the shop of Jugonundee, with whom he alleged that he was in partnership; on which the magistrate directed the darogah to make a full report on the subject. The darogah deputed the thannah mohurrir to hold an enquiry on the spot. The mohurrir reported on the 12th February that of the alleged outrage, which he ascribed to the influence of the zemindar, no proof was forthcoming, and that Jugonundee and other witnesses had deposed that the property alleged to have been plundered had been sold under process of law. The mohurrir, however, alleged that he had satisfied himself by private enquiry that

the property had really been plundered under color only of process of distraint. Upon this the magistrate wrote to the darogah on the 15th February, directing him to send both parties before him. On the 18th February one Joynarain Holdar, a relation of Muddon, made a complaint before the darogah to the effect that the gomastah, Judoo Moozoomdar, had, under color of a distraint made by the gomastah of Kristopore, plundered during the course of the preceding month property to the amount of 300 or 400 Rupees belonging to Muddon from the shop of Jugonundee; and that ten or twelve days before the complaint was laid the said Judoo Gomastah had again, under color of another distraint, plundered from the house of Juggo Paul a quantity of jute belonging to Muddon. The complaint further alleged that about three days previously the same gomastah had prevailed upon Muddon to go to see him, when the gomastah arrested him and sent him in custody to the house of the zemindar (meaning myself) at Ooterparah, and that he was then in confinement at my house. The darogah on the 20th February forwarded this statement, and sent the gomastah, Judoo Moozoomdar, to the magistrate, who was then on his tour at Rajabpore Thannah. There the magistrate bound him over in additional muchulka himself in the sum of 200 Rupees, and a surety in the sum of 150 Rupees, and ordered the darogah forthwith to proceed to the spot and make a careful enquiry whether the property had been seized under the process of law or not, and whether an illegal arrest had been made; directing that if these charges should be proved, the darogah should, after the completion of the enquiry, send up the party accused and the witnesses; and in the mean time should send up two witnesses to speak to the charges before the magistrate. On the receipt of this order the darogah came to the spot and on the 5th of February commenced the investigation. Keenee Dassee, the wife of Muddon, then stated before the darogah that, on the 24th of that month her husband's pro-

perty had been plunderd by the Gomastah Judoo under color of distraint, and that her husband had been sent in custody to the zemindar's house at Ooterparah. Before completing his enquiry the darogah on the 25th of February sent up with a report, marked A in the Appendix, Keenee Dassee, as prosecutrix, with ten witnesses to the magistrate at Howrah, but detained the defendant Judoo and certain pykes and nudgees, who were charged together with him, in attendance upon him (the darogah) till the 2nd of March 1858.

On the 26th February 1858 the magistrate (Mr. J. J. Grey) took the depositions of the prosecutrix and ten of her witnesses, and sent them away without having confronted them with the defendants. On the 2nd March following the darogah sent the Gomastah Judoonauth, with two pykes and two nudgees, in custody to Howrah. The magistrate took bail from Judoo Gomastah to the amount of 1,600 Rupees and from each of the nudgees and pykes to the amount of 500 Rupees each. The defendants pleaded not guilty, and begged to be furnished with a copy of the charge, as well as copies of the depositions of the prosecutrix and her witnesses, who had been examined in their absence. After obtaining these copies the principal defendant, Judoo, on the 27th of March filed a detailed defence, marked B in the Appendix, in which he denied the charges, and ascribed them to the enmity of certain ryots in the village, whom he alleged to have joined in a dhurmoghut or conspiracy to resist the just dues of the talookdar, who had commenced measures for assessing toofeer and other alienated lands on the estate. The defence contained a prayer that an enquiry might be held on the spot by the magistrate himself, or by some other darogah than the one, Prosonocomar Ghose, who had been up to that time conducting it, and who was, the defendant alleged, hostile to his master, the zemindar, and had conducted the investigation very improperly, in so much so that

the witnesses who had deposed to the defendant's innocence before the thannah mohurrir had been compelled by the darogah, by threats of torture, and by shutting up their female apartments, to give a different version before the darogah, having done which they would be afraid to give true evidence before the magistrate. About this time the defendants filed a mooktearnamah in the case, appointing as mooktears Mr. J. P. Paul and two of the mooktears of the Howrah Court. Mr. Grey, the magistrate, promised Mr. Paul both verbally and by letter that the case should not be disposed of without giving notice to him.

Mr. Grey had, in the beginning of the month of March, summoned Laulmohun, the gomastah of Baboo Bejoykissen Mookerjee, zemindar of Kristopore, by the use of whose name, as that of the party setting on foot the distraint process, it was alleged that Muddon's property had been plundered. This gomastah avowed himself as the person who had set on foot the distraint process under which the property had been attached as that of Kalikristo Napit and Goluk Ghose, rent defaulters. He alleged that Muddon Dey had no interest in the property, and that Judoo Moozoomdar had not interfered at all in the matter, and prayed that the distraint proceedings might be sent for from the sale commissioner, and that he and the peons who made the distraint might be examined on oath, to prove the fraud and falsehood of Muddon Dey. The magistrate, however, without holding any enquiry on the spot, as prayed for by Judoo, and without summoning the prosecutrix or her witnesses for cross-examination, or summoning the sale commissioner or the peon who made the distraint, or sending for the distraint proceedings, took up the case without previous notice to Mr. Paul on the 20th April 1858, and found the defendants guilty of having, under color of process of distraint, plundered the property of Muddon Dey; and sentenced Judoo Moozoomdar to six months' imprisonment, with 100 Rupees fine,

and an additional fine of 50 Rupees in lieu of labor, and each of the thirty nudgees and pykes to six months' imprisonment, 30 Rupees fine, and an additional fine of 30 Rupees each in lieu of labor, and discharged the gomastah of Kristoporo. The native mooktears vehemently protested against the case being decided without notice given to Mr. Paul as promised, and prayed a delay of two or three hours, that Mr. Paul might be able to attend, and that, meanwhile, they might be allowed to argue the case; but no attention was paid to their request. Mr. Grey's decision will be found in the Appendix marked C.

While the proceedings above detailed were going on, I was travelling in different parts of the Hooghly and Burdwan districts, having left my house on the 23rd January 1858. On the 26th February 1858 Mr. Grey issued a perwannah to my address, in which it was stated that, from the complaint of the prosecutrix, Keenee Dassee, it appeared that my gomastah, Judoo Moozoomdar, had carried off Muddon Dey, and that he had been since missing; and I was required to assist to the best of my ability in producing the missing man, Muddon, and another man called Juggo Paul also alleged to be missing; and it was stated that, should any breach of peace occur in future, proper orders would be issued, requiring my personal appearance before the court. The above-mentioned perwannah reached my house during my absence, and one of my amlahs replied to it by urzee, stating that I was absent from home, and that, from enquiries which he had made, it appeared that the persons alleged to be missing had not been carried off by my gomastah, and that no breach of peace had occurred, nor was likely to occur. On the 28th of February following Mr. Grey was pleased to issue a summons, calling upon me to appear personally or by mooktear to answer the charge of being an accomplice in the abduction of Muddon Dey, or being privy to the same, and of not reporting to the court the oppressions of my amlah. The magistrate ordered

my mooktear to send a person with the peon, to whom this summons was given to serve, to point out the place where I was. The mooktear sent the peon to my house at Ooterparah, with a letter, requiring my head amlah to send a person with the peons to Chunderkonah, where he supposed I was then living. The peons came to Ooterparah on the 3rd of March, and demanded a large fee from my amlah, who very properly refused to give any; on which the peons went back and reported to Mr. Grey that my amlah would neither give a man to go to Chunderkonah nor a receipt for the summons, and, moreover, had abused them; and they had the hardihood to state that they had seen me personally at Ooterparah. My amlah lost no time in representing the true state of the case and the misconduct of the peons to the magistrate, assuring him that he (the amlah) was ready to take the summons and to forward it where I was. But Mr. Grey suspended my Howrah mooktear, Essenchunder Roy, for not sending a man with the peons, sent a rooboocarry to the joint-magistrate of Serampore, in whose jurisdiction Ooterparah is situated, to punish my amlah for contempt of court, and sent to me by post an English letter, marked No. 121 in the Appendix D. I received this letter on the 8th of March, at a place called Moondoomallah, about 70 miles distant from Howrah, and lost no time in forwarding a reply by post, a copy whereof is marked E in the Appendix, wherein I explained that I had been absent from home since the 23rd January preceding, moving from place to place, and that it was impossible that I should have had any personal knowledge of the doings of my gomastah, Judoo; but that from enquiry I had ascertained that Muddon Dey had not been abducted, but that the complaint was the result of a conspiracy of a number of ryots, instigated by a powerful neighboring zemindar, whose name I gave, with whom I was on bad terms, and that my amlah could have no object in disregarding his summons. I filed also a stamped petition by

mooktear on the 12th of March, in which the same explanations were given in detail.

These explanations appear to have satisfied the magistrate at the time, for he took no further steps against me personally, and in his decision of the 20th April 1858 he merely says :— "The present case is attended with all these difficulties, which 'almost invariably exist in these *goom* cases. Whether the man 'has really been concealed or not cannot be legally clear, until 'he appears; I prefer therefore not to punish the defendants 'on that part of the charge, leaving them, as well as the 'zemindar himself, liable to punishment if the case is here-'after proved."

Judoo Moozoomdar Gomastah and the nudgee defendants, who had been convicted by the magistrate, appealed to the sessions judge (Mr. Latour) of Alipore against the sentence passed upon them, *and prayed to be admitted to bail pending the appeal, which was at once granted.* The appeal case was taken up on the 26th of May 1858, when Mr. Latour made the following observations regarding myself, in my absence, as I was not a party in the appeal case before him :—"From the 'records I am of opinion that the zemindar is personally res-'ponsible; parties are violently carried off and taken to the 'zemindar's house, and then they disappear. The authority of 'the magistrate has been feebly exercised in this case. I see 'no steps taken with a view to search the house of the zemin-'dar. Is the house of a Bengali Baboo, however wealthy, 'within a few miles of the Government House, to be beyond 'the possibility of examination and search upon sufficient 'grounds? What further warrant could the magistrate require 'than the deposition of the wife of the abducted husband, or 'the report of the darogah, who might be examined on oath, 'if an additional deposition was needed? The magistrate 'proposes to re-open the case. The zemindar I hold to be res-'ponsible for that man's production. He was seized violently

by his men and removed to his house, and the magistrate should hold the zemindar strictly to his responsibility." With these directions he remanded the case to the magistrate of Howrah, on the ground that the defendants, Judoo and others, should have been allowed an opportunity of cross-examining the witnesses for the prosecution.

A few days before the decision of the appeal the relatives and counsellors of Muddon Dey, the alleged abducted person, had opened a private correspondence with the darogah of Doomjoor, acquainting him with the place of his alleged captivity; and it was so managed, that on the day on which the appeal case was to be decided he was brought before Mr. Grey by a thannah mohurrir and two burkundauzes, who pretended to have rescued him. Mr. Grey had him immediately forwarded to Mr. Latour, but before the abducted man's appearance Mr. Latour had remanded the case.

When I was made acquainted with the nature of the observations made respecting me by Mr. Latour in my absence, I considered them highly prejudicial and greatly tending to bias the magistrate against me, and the more unjustifiable, as the record upon which they were made showed that the fact of Muddon having been taken to my house rested upon hearsay evidence only. I, therefore, immediately preferred an appeal to the Nizamut Adawlut, complaining against the injustice of making such observations behind my back, and prayed that the same might be expunged from the proceedings of Mr. Latour. The Nizamut Court (present Mr D I. Money) on the 18th June considered the language rather strong and somewhat extra-judicial, yet, on the whole, would not interfere, as the course directed by Mr Latour would give me an opportunity of clearing my character if innocent.

On receiving the decision of the sessions judge Mr. Grey issued on the 29th May a summons requiring my personal attendance in his court on the 2nd of June following, to

answer the charge or charges of plundering the property and kidnapping the person of Muddon Dey, the husband of the prosecutrix, Keenee Dassee. In obedience to this summons I appeared before the magistrate at the appointed time, when the prosecutrix was absent, but her husband, Muddon Dey, was present in court. The magistrate intimated that it was not his intention then to go into that portion of the case which related to the alleged plunder, but required me to answer the charge of kidnapping only. I pleaded not guilty. But this did not satisfy the court; I was required to state why such a charge had been brought against me. I stated that it was the result of a conspiracy, formed by a number of my ryots in consequence of my taking steps to enquire into their title to alleged rent-free tenures, and to toofeer or excess lands. I was then required to name my witnesses, which I did. I was then allowed to remain at large on bail in the amount of 10,000 Rupees, and the other defendants on their former bail; and it was intimated that, on a future day, to be fixed thereafter, I should have the opportunity of cross-examining the plaintiff, her husband, and her witnesses.

On the 15th June following I was called upon to cross-examine Muddon Dey and four witnesses on the part of the prosecutrix. On the 23rd of the same month I was allowed to cross-examine the thannah mohurrir and a burkundauze, who alleged that they rescued Muddon Dey from his captivity at Goie, from the house of one Mohes Bannerjee, whom the prosecution alleged to be in my employ as gomastah. The depositions in chief of all these witnesses had been taken before my appearance at court. On the same day four ryots of [redacted], who had been brought down in the custody of the native police, were examined with the object of proving that Mohes Bannerjee, although living at Goie, a village that does not belong to me, was employed as my gomastah for another village, called Jair, not far from Goie.

On the 7th of July Keenee Dassee, the prosecutrix, and the masters and pundits of the Bullootee school were examined.

On the 21st idem the darogah of Doomjoor, Prosonocomar Ghose, was examined. The depositions of the prosecutrix and these witnesses will be found in the Appendices marked G to Q. I was told that these depositions concluded the case for the prosecution, and I was called upon to produce my witnesses in defence.

On the 26th of July I filed in the case my documentary evidence and a list of witnesses; the latter (forty in number) were examined on the 16th and 18th August, and the 2nd and 4th of September. Their evidence went to prove my residence in different places during the time that Muddon Dey is said to have been detained by me in captivity, and carried from village to village on my estates, until eventually found by the police in a village not belonging to me; to disprove the statement of Muddon Dey as to his having been confined in the several villages stated in his deposition; to prove that Mohes Bannerjee, in whose house Muddon Dey contrived to be found by the police, had been dismissed from my employ more than a year previously; to prove that the ryots of the village where Muddon was found were at enmity with the zemindar of the village, who was my nephew, and that a suit had been brought, *some time* before Muddon's alleged advent to the house, by the same zemindar, and was then pending against the said Mohes Bannerjee, with the object of assessing all the lands to which Mohes laid claim as lakhirajdar; to show the existence, for more than a year, of a conspiracy among the ryots; and to show that intimidation and ill-treatment had been practised by the native police towards certain of the witnesses examined for the prosecution, to induce them to give false testimony against me The depositions of these witnesses I have not thought it necessary to give in *extenso* in the Appendix, as their purport is stated fully in my written defence; but I

may notice here that the magistrate subjected most of these witnesses to a severe and lengthy cross-examination; but that their testimony was not shaken on any essential points.

After closing the evidence for the prosecution, as is stated above, the magistrate thought proper to summon two more witnesses on the part of the prosecutrix, that is, the Pandooah darogah and Boneemally Chatterjee. Their depositions were taken on the 23rd September 1858.

On the 11th of October my written defence in Bengali, together with an English abstract thereof, were filed in court. A copy of the same will be found in the Appendix marked R. After my defence had been filed I was told by the magistrate, for the first time, that one of the defendants, my gomastah, Judoo Moozoomdar, had filed a number of letters, purporting to have been written by my amlahs and bearing a mark said to be one used by me in corresponding with my amlahs. A few of these letters were shown me in court, and I at once pronounced them to be clever forgeries. Mr. Grey then pressed me to admit them to be genuine; and stated at the same time that, if I should decline to do so, it would depend upon the answers which I might give to certain questions which he should then proceed to put to me, whether or not he would cancel my bail and commit me to jail during the Doorgah Poojah, then close at hand, until the case could be proceeded with further on the re-opening of the courts.

The impropriety of putting such an alternative to a defendant on a criminal charge is too obvious to require particular comment, as also the illegality of making the enlargement on bail, or incarceration of a defendant pending the investigation, depend—not upon the nature of the charge, the apparent guilt of the accused, or the sufficiency of the bail offered—but on the line of defence which the accused may adopt. I retired for a while with my counsel to consult on the course which should be adopted in case of Mr. Grey proceeding to put his extra-

ordinary threats into execution. I resolved, at all hazards, to maintain the truth, and on my return to court reiterated my statement that the letters were forgeries.

The magistrate did not, as I fully expected he would, proceed thereupon to commit me; and I therefore conclude that the threat was merely an expedient to induce me to confess, which, having failed, was abandoned by Mr Grey. At the close of the proceedings of that day, as I was leaving court, I was again accosted by Mr Grey, and cautioned to consider the matter well, and told, that an acknowledgment of the letters would much simplify the proceedings. It was intimated to me that in that case the magistrate would not consider the case of sufficient criminality to require any very severe sentence; whereas, should I persevere in my denial, and waste the time of the court in the investigation of the genuineness of the letters, I should, in case they were proved genuine, be punished with the utmost rigour of the law. I may as well mention here that, on the occasion when these letters were shown to me, my serishtadar or head native officer of my zemindaree, who was then present in court, was called up by Mr Grey, and questioned whether or not he admitted being the writer of some of these letters, and he was significantly told at the same time that on his answer would depend whether he should be made a *witness or defendant* in the case. On perusing the letters the serishtadar at once denied them to be in his writing. The court did not take down this answer in writing, nor think it necessary afterwards to make him a witness or a defendant. This occurred on the 11th of October, when only one day intervened before the actual Doorgah Poojah holidays, yet Mr Grey ordered us to attend the court for the final decision of the case on the 13th of October. The court officers, native mooktears, English counsel and defendants all protested against the case being taken up that day, particularly as one of my counsel, Mr. Newmarch, was then residing at Burdwan for the

vacation, and the other, Mr. Eglinton, was going to Rangoon. Nothing, however, would induce Mr. Grey to postpone the case longer, and the 13th of October was accordingly fixed. To the inconvenience of all, and against the religious feeling of some, we attended the court on the 13th, when Mr. Grey, finding that I still persevered in my denial, apologised for having given us the trouble of attending the court, as he was not prepared to take up the case that day; and he then fixed the 20th idem for our next attendance. That day also came within the Doorgah Poojah holidays recognised by Government, and therefore I begged of him to allow us three or four days more, when counsel and pleaders would have returned home after the vacation; but he would not allow any delay; and we left the court, understanding that we were to attend again on the 20th. In the meantime, however, Mr. Grey changed his mind, and went on a trip to Ranegunge, and therefore on the 18th he wrote to Mr. Newmarch that he had postponed the case for the present. After this intimation we were not called upon to attend the court *for nearly a month.* The court, however, was not idle during this long interim, as numerous perwannahs were issued, and police officers of all grades were deputed in different directions through the Hooghly, Howrah, and 24-Pergunnah districts, to collect parole and written evidence against me. Applications were made to my brother, Rajkissen Mookerjee, and his son, Hurrihur Mookerjee, to furnish means of proving the handwriting of myself and my amlahs on the letters produced by Judoonauth; it being supposed that, in consequence of a misunderstanding which had been existing for some time between us, they would be willing witnesses against me. By these exertions the police managed to get together, from various quarters, a number of my discharged servants and known enemies, with certain old and worn-out bits of paper dignified by the name of letters, said

to have been written by myself and my amlahs. Most of these witnesses were brought before the magistrate in his private room and subjected to a preliminary examination taken before the day fixed for our appearance.

The next day fixed for our attendance before the magistrate was the 11th of November 1858, on which day my nephew, Hurrihur, and four of his principal amlahs were examined in order to prove that the letters produced by Judoonauth were the handwriting of my amlahs; but they disappointed the police by proving the exact reverse. On the same day three of my discharged gomastahs were examined, and at the close of the day one Peary Mohun Bannerjee, a moonsiff, was examined on oath, and his cross-examination reserved for the next sitting. On the 17th idem Mr. Grey examined his nazir as to a little scene said to have been enacted in the presence of the latter, with a view to create an impression that I was attempting to tamper with the approver, Judoo. On the following day one Kalinauth Mookerjee, a person with whom I had suits in more than one court, was examined to corroborate the handwriting of my amlahs. The evidence of these witnesses will be found in the Appendices marked S, T and U. After this I was called upon to produce four of my principal amlahs (in whose handwriting the letters filed by Judoo Gomastah were alleged to be,) as witnesses for the prosecution, on pain of being kept in daily attendance at court until they should come in. A day was fixed for their attendance; but, subsequently, Mr. Grey insisted on these amlahs being sent over to him for examination three days before the day fixed, writing to me that there would be no necessity for me or my counsel to attend with them, as the magistrate merely wished to put a few questions to them, which they could not deny. It will be seen that these are the four amlahs, Sreemunt Roy and others, on whose deposition Mr. Grey has

dwelt so elaborately in his decision. Of course I attended at the examination with my counsel, notwithstanding the hint to keep away. The amlahs attended and gave their depositions.

It then remained for me to bring forward my witnesses in defence, which I did, and proved that Judoo Gomastah had delivered over all the correspondence in his possession to his successor when he ceased to be my gomastah, and therefore could not have retained in his possession the letters, about 100 in number, which he now pretended to produce as addressed to him by me through my amlahs. I offered also a few witnesses as to the misconduct and conspiracy of those concerned with Judoo Gomastah, in the production of the letters and documentary evidence to prove the villainous character of most of the witnesses for the prosecution.

The darogah of Doomjoor, Prosonocomar Ghose, had, in the interim, forwarded one Ram Doyal Nugdee as one of the captors of Muddon Day. This man was several times taken to Mr. Grey's private chamber, and exhorted to make a clean breast of it; but he was so obstinate as to persist in asserting his own innocence, and consequent inability to criminate me. He was consequently committed to prison for want of bail, but still persisted in his denial. On this the prosecutrix's husband, Muddon, was brought forward to recognise him as one of his captors, which he did; but on Ram Doyal intimating his intention of cross-examining Muddon from the beginning of the case, Mr. Grey held a proceeding, stating that it had become known to the court by private information some time previously, that the plaintiff's husband had been bought over by me, and that he would consequently intentionally give answers contradicting his former evidence, if allowed to be cross-examined. Ram Doyal was, consequently, converted from a defendant into a witness. This took place on the 30th of November. On the 1st of December, on our representation, Mr. Grey called upon Baboo Nilmoney Mitter, the deputy-magistrate of Howrah, to put in a statement as to how the letters were first dis-

covered, and the part which Peary Moonsiff had taken about their production. The latter had entirely denied all knowledge about the letters, but his instrumentality in producing them was clearly established by the statement put in by the deputy-magistrate. Mr. Stephen, the deputy-magistrate of the 24-Pergunnahs, was, at our request, called upon to state the character of Peary Moonsiff, and what he knew about the bitter enmity long entertained towards me by Peary which he did by a [redacted]. Both these documents will be found in the Appendices marked V and W. My counsel now intimated to the court my intention to summon Mr. Latour, the sessions judge, to state what had passed when the letters were produced to him in private by Judoo and Peary Mohun; but Mr. Grey said that it would be unnecessary to do so, as he, Mr. Grey, was ready to state what had been done with respect to the production of the letters to Mr. Latour. He then stated that the disputed letters had been in the first place taken to Mr. Latour by Peary and Judoo Gomastah, and that that gentleman had written to Mr. Grey more than one private letter on the subject of the letters, and generally on the subject of the prosecution. My counsel now (on the 6th December 1858) filed a written defence in the Bengali language, with an English abstract thereof (Appendix X), confined to the subject of the letters only. Mr. Grey having restricted them to that subject, my counsel, Messrs. Clarke and Newmarch, also addressed the court orally, and Mr. Grey intimated that the case would be taken up and finally decided on the 7th December; but on the morning of that day it was again postponed to the 9th December.

On that day Mr. Grey delivered a short speech before pronouncing judgment, and stated that if the defendant, the Baboo (meaning me), had admitted the letters when they were first shown to him, he (Mr. Grey) would have decided the case at once, and passed a very slight sentence upon me; but that as I had keenly contested the proceedings, and

occupied the time of the court for many days, and sometimes five or six hours a day; the court would visit me with a much severer punishment than it had originally intended. After dwelling on some other minor points, he passed the sentence against me and the gomastah defendant, as mentioned in the margin, and released my nugdees (peons), as the case had not been proved against them, after having kept them in attendance for more than nine months. His written decision, in *extenso*, will be found in the Appendix marked Y.

Joykissen Mookerjee, 4 months' imprisonment, and 200 Rupees fine in lieu of labor; Judoonauth Gomastah, 11 days' imprisonment, and 25 Rupees fine in lieu of labor.

My counsel immediately intimated my wish to appeal to the sessions judge, and requested that I might not be sent to jail until the result of our application to that functionary for bail should be known. On this Mr. Grey stated that he had special reasons, which he need not then mention, for sending me over to Alipore, but he instructed his European constable to conduct me to the sessions judge's court, with orders to lodge me in jail, should the judge refuse bail. Mr. Grey, however, authorised my counsel, Mr. Clarke, to state, on making his application to the sessions judge, that he (Mr. Grey) was of opinion that this was a case in which bail ought to be accepted. My counsel, Mr. Clarke, and myself, accordingly proceeded immediately into the Alipore Court, where an application was forthwith submitted to the sessions judge by Mr. Clarke, who informed the judge of the magistrate's opinion that this was a fit case for bail; but Mr. Latour thought proper, for reasons which will be stated hereafter, to reject my application for bail, and I was accordingly sent into the Alipore Jail on the afternoon of the 9th December 1858. Mr. Latour took up my appeal on the 11th of the same month, and after counsel had been heard on my behalf rejected my appeal on the 13th. The ground of the judge's decision will be found in the Appendix marked Z.

The only resource now left was to make a final appeal to the Nizamut Court; but as that court does not always call for the proceedings in the lower courts, it became necessary to take copies of my defence and other papers, as well as of the decisions of the lower courts, the obtaining of which caused some delay; and the Nizamut appeal was not filed till the 31st December 1858. The Petition of appeal will be found marked Z1 in the Appendix.

It was taken up for the first time on the 6th January 1859 by Mr. Sconce, who, on reading the reasons of appeal and hearing from my counsel specimens of the curious reasoning of the lower courts, as shown in the written defence, was induced, without much argument, to send for the zillah proceedings.

The proceedings did not reach the court until the 11th of January. At this stage of the proceeding Government thought proper to direct its sudder pleader, Baboo Shumbhoonauth Pundit, to appear on the part of the prosecution, though the prosecution had been brought by a private individual. On the 14th and 15th January the Nizamut Court, after hearing the arguments of my counsel and that of the Government pleader, took time to consider its decision, and delivered final judgment on the 21st January 1859, reversing the orders of the lower courts, not on account of any legal flaw, but on the merits of the case, although the learned judge stated in his decision, that there were some legal objections well worthy of discussion and consideration. This judgment will be found in the Appendix marked Z2. On the same day I was released, after a confinement of forty-three days in the jail of Alipore.

I have gone through the above history with somewhat tedious minuteness, because it is probable that it may reach the eyes of some to whom the nature of proceedings in the Mofussil Courts is unknown, and who, without information as to the dates on which the case was taken up by the courts and

the proceedings of each day, would hardly believe that the prosecution was kept afoot with more or less activity throughout a space of *more than thirty weeks* intervening between its first institution and final decision.

If, in the comments which I proceed to add, I should be somewhat unsparing of blame upon those by whom I have been subjected to persecution, some allowance must be made for one whose ordinary occupations have been wholly suspended, whose peace of mind has been destroyed, and whose purse has been severely taxed through a period of more than seven months in meeting a charge which the Highest Court of the Realm has finally pronounced to be groundless, though not until after a considerable portion of the punishment, which would have been due to guilt, had actually been undergone by the person acquitted.

I conceive that I have just cause to complain, that the over-zeal and prejudice of the lower courts have given encouragement to a vile conspiracy, in which the subordinate officers of the police and amlahs discharged from my service have taken an active part, and in which a moonsiff employed under Mr. Latour has interfered, so far as to render it not very easy for him to clear himself of complicity in this nefarious design.

Although the Nizamut Court has not, in plain words, condemned the over-zeal and prejudice of which I complain, yet passages occur in Mr. Sconce's judgment, which imply that its existence had not escaped the notice of the learned judge.

In one portion of his judgment the following passage occurs:—

"Again, it is said, that both the magistrate and sessions 'judge have materially magnified and misinterpreted the evidence 'by which they profess to have been guided, by magnifying the 'offence charged against the prisoner as an influential zemindar, 'and by heightening the value to be attached to indifferent 'evidence, because the position and influence of the zemindar

'made it difficult for the prosecution to adduce better. There 'seems to me some ground for this statement on the face of both 'judgments. The judge, in the commencement of his judgment, 'recites certain preliminary facts which he observes ought to be 'borne in mind, in order to be in a position to form juster 'conclusions as to the truth or falsehood of the statement of the 'parties."

If we look at the incidents themselves of the prosecution, we shall find from the very outset traces of the magistrate's proneness to presume the guilt of the accused, because he was a zemindar.

When the magistrate, on the 25th February 1858, issued a summons for my appearance in his court, either personally or by mooktear, he could have given the same to my accredited mooktear in the court, to be forwarded to me, or might have ordered a receipt for the same to be taken from my head amlahs at Ooterparah.

This would have been the usual course; but, instead of adopting it, Mr. Grey thought fit to order that the summons should be served upon me personally. He then got it endorsed by the joint-magistrate of Serampore, although Mr. Grey could hardly have been ignorant at the time that I was not in the Serampore District, but travelling in the jurisdiction of Cutwah, or Jehanabad, or in that of the Burdwan magistracy. An opportunity was thus given for commencing that process of intimidation, by which the native police throw difficulties in the way of a defendant whose conviction they wish to obtain. A false representation was made to Mr. Grey, that my mooktear and amlahs refused to send a man to accompany the police burkundauzes to Chunderkonah; and although my amlahs appeared before Mr. Grey, and denied altogether the truth of the burkundauze's representations, yet Mr. Grey thought proper to make over my amlahs to the Serampore Court for contempt, and declared my

mooktear, Issen Roy, incapable of practising in his court. The court thus assumed an attitude, the significance of which is well understood in the Mofussil. I found, in consequence, considerable difficulty in finding another native mooktear to act for me in the magistrate's court. Although the said Issen Roy obtained a reversal of this order from the appellate court, yet Mr. Grey did not allow him to appear in his court on my behalf or on that of my servants for some time after.

Mr. Grey did not attempt to conceal that the umbrage taken by him at this early stage of the proceedings, owing to the imaginary refusal of my servants to facilitate the service of his court's process, would influence him in the further progress of this case, for in a letter to my address he wrote as follows :—"Papers relating to land claims, roads, &c.,' find their way to 'your hands speedily, and are at once attended to; and of 'course I shall bear this in mind in considering your proceed-'ings in the present case."

While Judoonauth Gomastah and my collecting peons were kept in attendance at the Howrah Court, I was obliged to appoint another gomastah, Lokenauth Bannerjee, and other collecting peons to conduct the current business of the estate. These were constantly harassed, and sometimes kept in confinement at the thannah by Prosono Ghose Darogah, under one plea or another, to the utter confusion of my business. On these men complaining to the magistrate, he kept them dancing attendance in his court for a day or two, and then sent them away with no redress, merely saying he would take up the matter whenever he might have time, which he afterwards never did. The proceedings of the police frightened my new gomastah Lokenauth so much, that he at last left my service; and I had to appoint another set of amlahs, who also did not escape being frequently annoyed, harassed, and ill-treated by the police. The frivolous grounds upon which the police took occasion to annoy my people may be judged

of by the following instance :—On the 10th June 1858 the darogah reported to the magistrate that the new gomastah had collected a number of earthen *harees*, or cooking pots, and some fire-wood at Bullootee. This would seem to be a very innocent proceeding, till the police put their interpretation on it, which was, that the pots and faggots were for the use of a gang of lateeals or club-men, who were expected to come and plunder the village. The gomastah, karkoon, and a mohurrir, as the commissariat officers of Darogah Jee's imaginary army, were summoned to the court. I made representations to the magistrate, first by petition and then in person, and even through my counsel, that the cooking pots had been purchased, as in former years, for the use of my house at Ooterparah, where such pots are somewhat dearer, and that the fire-wood was the ordinary supply for the rainy season. The magistrate shook his head—the explanation was too simple and truthful for his satisfaction. I was first bound over to keep the peace of the estate. After two days' consideration he thought the security insufficient, and sent for my amlahs from the estate. When they arrived they were required to furnish security to keep the peace. It was a late hour in the afternoon, and the security was not immediately forthcoming. They were therefore detained in confinement till late in the afternoon of the following day, when a deposit of Company's papers was accepted by way of security, and they were released. One of them, the karkoon, was fined 40 Rupees for contempt of court, on the alleged ground that he was laughing at the court. Who shall say whether the charge was true or not ? I was also made, on this occasion, to give a muchulka (penal bond) in the sum of 5,000 Rupees, and to give further security to the amount of 5,000 Rupees for preserving the peace anent the cooking pots. This was not the only occasion in which my new Mofussil amlahs were, during the course of these proceedings, harassed and annoyed.

The darogah from time to time made no less than a dozen reports to Mr. Grey, and as many times my amlahs were summoned and detained in court for several days together. On one of these occasions the darogah stated that the gomastah and myself were intending to murder him ; on another that the gomastah had given to the plaintiff's husband 200 Rupees as a bribe to buy him over ; *on another, that he had been caught speaking with the plaintiff in the village ;* and so on. I remonstrated several times with the magistrate, representing that no gomastah could collect the rents and transact the business of the estate, if he were so often unnecessarily annoyed and degraded in the eyes of the tenants ; but no attention was paid to me.

The magistrate also, on the plea that it was necessary to take steps to preserve the peace of the village, kept four, sometimes six burkundauzes in the village for eight months. The burkundauzes made good use of the well-known unfavorable disposition of the magistrate towards myself and my amlahs, and lost no opportunity of insulting, abusing, and fleecing the amlahs, who knew that it was useless to complain. They did not even spare such of the ryots as were supposed to remain faithful to me. One of them, a respectable Brahmin, having suffered loss by the depredations of these burkundauzes, ventured to complain to the magistrate, who ordered the darogah, Prosono, to enquire into the matter; but accompanied the order by a remark that, perhaps, the complainant had been put up by others to make such a complaint. The darogah, with this hint, of course reported that the complaint was false. The police, however, had not yet done with the Brahmin ryot. A false report was speedily made against him, that he had beaten a female relation, who had disappeared and was supposed to have died from the beating. The charge, which was entirely false, was dismissed by the magistrate ; but the burkundauze who had made it got no punishment.

The effect of the course of proceedings which I have above attempted, though very imperfectly, to describe, was to lower me and my amlahs in the estimation of my ryots, rendering it very difficult for me to procure witnesses to prove the conspiracy ; and, on the other hand, encouraging the ryots to depose against me. The native police on several occasions used blows and tortures to induce witnesses to speak against me. Their proceedings, in this respect, were distinctly brought by me and my amlahs to the notice of the magistrate, with a prayer that the darogah at their head might not be allowed to hold any further enquiry into this case, nor to collect witnesses, that these duties be entrusted to some other officer, and that enquiry might be made as to the fact of torturing witnesses. The court paid no attention to these complaints, beyond remarking more than once that some degree of licence must be allowed to the darogah in consideration of the peculiarity of the case. The darogah was also allowed, during the examination of witnesses in this case, to come upon the bench and to put questions to witnesses through the magistrate, a practice forbidden by law and the rules of all other courts, as its effect is to overawe the witnesses, and to prevent them from, in any respect, breaking off from the story which the darogah represented that he had extracted from them in his preliminary enquiry in the Mofussil.

The activity of the police in going up and down the country to ferret out evidence to be used against me could only be credited by one who was on the spot and a party interested.

Their industry does not appear to have been confined merely to the discovery of evidence. They turned their hands also to its manufacture. One Thakoor Dass Moozoomdar, a discharged gomâstah of one of my relations, by name Kalikissen Chowdry, has stated that he was tempted by the police to file a

number of forged letters as having been written by my amlahs and signed by myself; and to give an air of truth to the statement, he was made to declare that the estate of which he was gomastah was my benamee property. Afterwards, either having been disappointed of his reward, or failing in courage to perform the villainy expected of him, he came forward before the magistrate, and presented a petition, stating that the thannah officers had given him those letters and forced him to sign a statement which was not true, and that an influential officer of the police, whom he named, was insisting that he and his son should come forward to take a false oath before the court, and prayed that they be not further molested by the police. The magistrate sent for him into his private room, and there spoke to him strongly about the improbability of his story. The man however persevered in his declaration, although he was again apprehended by the police on his way home and ill-treated. The magistrate at last took a muchulka from him for Rupees 100 to remain in attendance at his court till his case should be disposed of. The man did attend the court day after day for nearly two months, and several times verbally applied to the magistrate to enquire into the conduct of the police in this matter; but nothing was done. Neither did the magistrate, as he ought to have done, examine him as a witness to prove or disprove the letters which the police had represented him to have produced. This matter was fully urged in my Bengali defence, but no attention was paid to it. Had Mr. Grey enquired into the matter, it would have revealed the villainous system by which the native police procured and filed a number of forged letters, and would have saved the magistrate from being imposed upon. Unfortunately, throughout the case, nothing alleged against me appeared to the magistrate too frivolous for enquiry, while the most serious allegations against the conduct of my accusers were treated with perfect contempt.

It must not be forgotten that the case which the Nizamut has now scouted as false, notwithstanding the great exertions for which the magistrate takes so much credit to himself in his own decision to prove it, was not the only one launched against me by the same accusers.

I was charged also with having made away with another ryot, named Juggo Paul. This complaint was kept in abeyance to see what turn Muddon Dey's case would take. When the latter seemed to be breaking down, it was thought advisable that Juggo should re-appear in his native village, where by *accident* Muddon Dey found him and took him to the active darogah, Prosonocomar Ghose. The darogah took down a lengthy deposition, and forwarded the same to the magistrate, with an elaborate report. The magistrate forthwith took Juggo Paul's deposition on oath, but it unfortunately happened that before Juggo Paul's re-appearance a witness (Bhoyrub Bhandaree) had been examined to support the statement made by Juggo's mother of the alleged kidnapping of her son. The statement of this witness differed so materially from the deposition of Juggo Paul himself, who stated that the other witness and himself were kidnapped and kept in confinement together at the same time and place, that Mr. Grey declared in open court that the discrepancy was so great that there was no occasion for my counsel to cross-examine Juggo Paul, or for me to go into a defence. Notwithstanding this declaration, the magistrate, though frequently required by my counsel to dispose of Juggo Paul's case, kept the same hanging over me; with what object neither I nor my counsel could at the time divine. It now appears that it was kept on hand in order that the nuthee might be sent up as make-weight together with that of Muddon Dey "for such attention as it might call forth." The magistrate, in sending it up, is however forced to acknowledge that the contradictions of the witnesses "*make it very difficult to go on with the case, with any chance of any*

other result than certain acquittal of the defendant." But then follows a notable instance of that of which I complain, *viz.* the foregone conclusion of my guilt, with which Mr. Grey enters upon any enquiry in which I am defendant. He "*has no doubt that the contradiction is purposely made.*"

While Muddon Dey's case was proceeding in the magistrate's court, it was obvious both to myself and my counsel that Mr. Grey regarded himself rather as prosecutor than as judge. This was so apparent, that it was the intention of my counsel to remonstrate against the continuance of this mode of conducting the case, provided Mr. Grey was acting in a judicial capacity. With this view they pressed him again and again to say whether he was investigating this charge with a view to decide on it himself, or with that of committing it for trial by the sessions judge. Mr. Grey, however, refused to intimate his intention in this respect, and my counsel could consequently gain no opportunity of requesting my judge to confine himself to the functions proper to that office. It is unnecessary for me to enumerate the particulars in which Mr. Grey acted in the capacity of prosecutor, as his written decision contains in many passages an avowal of the fact. From among these I will here quote only the following:—"As 'to proving these letters—here was a heavy case, and one of the 'most intricate and difficult kind of evidence to be carried on. 'Amidst much other work, *I have to my own mind satisfac-'torily proved*, quite independently of the above *primâ facie* 'consideration, though with much difficulty, and after serious 'interruption to my official duties, that these letters are really 'written by the amlah whom they purport to be written by." What are these, but the words of a prosecutor arrogating to himself the credit of more than ordinary zeal in the conduct of his case?

I shall not here weary the public with a minute analysis of the particular evidence adduced against me in this case.

This has been very fully gone into in my first and second defences (two having been rendered necessary by the re-opening of the case for the prosecution after my first defence was before the court,) in the Appendix: and the luminous judgment of the Nizamut Court so completely demolishes the unsound fabric of evidence built up in the lower courts, as to render it unnecessary to pulverise its ruins.

I shall content myself with a short recapitulation of the grounds of complaint which I conceive myself to have against the judicial authorities of the lower courts who have been engaged in disposing of this case.

As respects the magistrate, I complain of his having, from the very outset, acted upon a presumption of my guilt, evidenced by his proneness to suspect me of a desire to evade the process of his court; of his having taken the earliest opportunity to place his court in an attitude of hostility towards myself and my amlahs; of the influence thus created in my disfavor having been heightened and kept alive throughout the progress of this case by a series of vexatious complaints against myself and my servants, gravely entertained by the magistrate, involving their attendance in court, and at times the confinement in custody of the parties accused, and eventuating in significant warnings or the exactment of securities to keep the peace: while, on the other hand, the gravest accusations of misconduct preferred against the subordinate police were left unheeded and uninvestigated; of witnesses (and those of the most ignorant and timid class) having been dragged to court in the custody of the executive police; of the officers of that police having been allowed to be present in court, confronted with witnessess from whom they had personally taken statements, and permitted to suggest questions for their examination; of the magistrate's having, throughout the case, frequently had the witnesses into his private room; of his detaining four of my nugdees or peons

in attendance in his court for more than nine months, to the great detriment of my business, without any tangible charges, much less any proof against them ; of the investigation of the case having been protracted to an extent almost unprecedented ; of its having been revived, after having so completely broken down that on the day appointed for its final disposal the magistrate found acquittal upon the evidence before him inevitable, by the reception of an entirely new body of evidence for the prosecution, originating in the confession of an approver, who had previously gone into an elaborate proof of his innocence, and who appeared in his character of accuser under the patronage of a moonsiff openly avowing the bitterest enmity towards me ; of the magistrate having, on the occasion of the production of this evidence, resorted to the most extraordinary mode of obtaining its admission, by proposing what I could at the time interpret in no other way than as the alternative of confessing my guilt or going to jail during the Doorgah Poojah ; of his threat to my serishtadar, that, upon the answer which he should give would depend whether he be made a witness or defendant in the case ; of his having kept afloat a rotten case against me many weeks after he perceived that "it was very difficult to go on with it with any chance of any other result than certain acquittal of the defendant," in order that he might send it up with the present case, when appealed, accompanied with remarks which must prejudice the higher court against me ; of his having been engaged as prosecutor against me, using exertions to procure a conviction for whose more than ordinary zeal and activity he has taken to himself the great credit in his report of the case, and yet disposed of the case himself judicially, instead of sending it up for trial before another judge ; of his having throughout proceeded upon the principle, abundantly avowed in his written decision, that it was proper to infer my guilt from evidence weaker than sufficient to convict an ordinary defendant, merely on the

ground that I was a powerful zemindar; and, lastly, of having, after I had left the court with my counsel, upon being convicted, added to his written decision a ground for conviction, upon which he laid peculiar stress, and without recording the fact, that the misstatement in one of my written communications to the court, in which it originated, had been first brought to his notice by my own attorney, Mr. Paul, a fact which, had his decision been completed while my counsel were in court, would have been at once recalled to his recollection.

As respects the sessions judge who decided the case in appeal, I have to complain that in the first instance he sent down the case for further investigation to the lower court, accompanied by remarks whose language hardly differs from that used in delivering judgment of conviction upon one whose guilt has been established by judicial proof; that after he had sent the case down he corresponded thereon with the magistrate while the case was still pending before the latter officer; that during the same time he admitted the approver Judoo, with the moonsiff who brought him forward, to interviews at his private house; and that he, too, as well as the magistrate, in considering the evidence against me, went upon the principle, that weaker proof would suffice against a zemindar than against any ordinary defendant.

That his interference in the case before it came before him judicially had had the effect of prejudicing the mind of Mr. Latour against me may be pretty plainly inferred from his rejection, contrary to the well-established practice of appellate courts in all cases of misdemeanor, of my application to remain on bail pending my appeal to this court, notwithstanding that the magistrate had expressly declared his opinion that the case was one in which it was fit that bail should be taken Mr. Latour assigned as a reason for rejecting the application, that no copies of depositions were filed with my petition,

although he is well aware that it is not the practice to file such, and had, at an earlier stage of this very case, dispensed with such copies on the application of the other defendants. When these men, my servants, had been sentenced to six months' imprisonment on a charge of plunder, Mr Latour at once admitted them to bail, pending appeal When I, their master, was sentenced to four months' imprisonment on a charge of being privy to assault and false imprisonment, Mr. Latour sent me to jail to undergo nearly half my punishment while engaged in establishing my innocence; but then I was a zemindar, which is in Mr. Latour's eyes quite crime enough.

The bias of Mr. Latour's mind was so evident to myself and my counsel, that we despaired from the outset of convincing him by any arguments, however conclusive, of my innocence. We therefore ventured in the most respectful manner to apply to him to make over the case to the additional sessions judge, urging as a reason, that he had already, on the occasion of remanding the case to the magistrate, expressed a strong conviction of my guilt, and had also held communications with my accusers, from which he might, unknown to himself, have received impressions on the case. Our application was, however, rejected by Mr. Latour, with the following curious remarks :—

"This is an application by the petitioner to transfer his 'appeal to the additional sessions judge.

"This application conveys a high imputation upon the 'character of the presiding officer of this court, an indignity 'not to be submitted to by any European judge and gentleman.

"The application is peremptorily rejected as a very gross 'contempt of court."

The intention to offer an indignity was entirely the creation of Mr. Latour's own imagination. My application was made on a principle analogous to that recognised by the

regulations, which prohibit a sessions judge from trying a prisoner committed by the same judge in his capacity of magistrate. Any reflection on the integrity of the judge was expressly disclaimed, and none is, I submit, conveyed by an application, which merely seeks that one who has already expressed a decided opinion in a case, and examined evidence thereon, should not afterwards sit as an appellant judge in the same case.

It is not altogether unworthy of remark that Government was, on the representation of Mr. Grey, induced to authorise its sudder pleader (advocate general) to conduct the prosecution, although this was but a case of misdemeanor.

The misfortunes of an individual can hardly be matter of regret, if in the end they be conclusive to the general good: and I shall therefore be almost content to have undergone the cost, annoyance, personal suffering, and at one time apparent disgrace above described, provided the disclosure of their history should lead to such changes in the system of dispensation of justice (so called) in the Mofussil, as may render their recurrence more rare.

The reforms of which the above narrative appears to me to be most obviously suggestive are as follows:—

1. The placing of the executive police under a different covenanted officer from the one who sits to dispose judicially of the cases which that police may be instrumental in bringing forward.

In my case the ryot supposed to have been aggrieved was not my prosecutor. Neither he nor his wife, Keenee Dassee, named me individually as a defendant, nor gave any evidence which directly affected me. It was by the magistrate, at the suggestion of the judge, that I was placed on my trial; and the unseemly spectacle was for months presented to the inhabitants of Hooghly of a prosecutor, with the whole executive police at his beck, ransacking by their means every corner

of the zillah for evidence against a private individual, hauling to court in custody by the same means witnesses not served with any regular process, examining those witnesses in his private room and marshalling their evidence against the accused with all the zeal and industry (for which he has himself claimed credit) of an attorney retained for the prosecution, and then sitting as judge and jury to decide upon the credit due to the evidence so produced. Wholly apart from any imputation of a wish to do injustice, it may well be doubted whether under such circumstances the judge can bring an unbiassed mind to the decision of the case.

2. The passing a strict inhibition against a sessions judge in any way interfering with the conduct before a lower tribunal of a case which is afterwards to come before him in appeal.

If we grant that Mr. Latour might be not wholly unjustifiable in sending down the case by an official act to the lower tribunal for investigation as against me, accompanied by remarks pretty plainly indicative of a foregone conclusion on his part of the guilt of the accused, we must judge far otherwise of his unofficial acts during the subsequent conduct of the case, as it came out, during the course of the proceedings before the magistrate, that Mr. Latour not only corresponded with the magistrate privately upon the case, but had interviews with the approver, Judoonauth Moozoomdar, and his friend and abettor, Peary Mohun, the moonsiff, at his private house at Alipore. I know not the contents of the correspondence, nor what passed at the interviews; but how can I tell to what extent the minds of my judges may have been prejudiced by the one or the other?

3. The [illegible] general rule, to be deviated from only in the most exceptional cases, that the accused shall be admitted to bail in cases of misdemeanor pending his appeal to the higher tribunal.

This would be in analogy to the practice established under the Statutes 8 and 9 Vic. c. 68 and 16 and 17 Vic. c. 32 for "staying execution of judgment for misdemeanor upon giving bail in error."

In my case I had, before my innocence was established, undergone nearly half the amount of punishment awarded to guilt.

To form an impartial opinion on the merits of this case it will be necessary to peruse two documents printed here in the form of appendix 1st Mr. Grey's decision (C) and my two written defences made before him (R & X) as well as my petition of appeal to the Nizamut Court (B-1) and the final decision of that Court (B-2). To have introduced them into the text would have rendered it unnecessarily tedious. Besides my health has suffered so much from what I had undergone that I was unable during the periods when the above were composed to bend my mind fully to the task of preparing them.

[illegible]

APPENDIX.

A

25TH FEBRUARY, 1858.

Report of the Police Darogah of Doomjoor.

The Darogah reports that under the orders contained in the Perwannah of the Court dated 20th February, 1858, issued in the case of plunder of property of Muddun Dey of Bulluttee, his capture and illegal confinement by the men in the employ of the Zemindar Joykissen Mookerjea; he, on the 23rd idem, proceeded to hold a local investigation, and on his arrival at Gayspore, the evidences of the witnesses, Juggo Nundee, partner of Muddun's joint shop, and Denoo Paul, Khettermohun Paul, Mohendronauth, Suttroghun Ghose, and Neebarun Mookerjea, and several other students of the Bulluttee School, and Gorachaud Gola, Gobindo Paul, Ramcoomar Khamaroo, and Gopaul Paul, and others, on behalf of the prosecutrix, Keenee Dossee, and her minor grandson Koylas Paul, were taken. From the tenor of the above depositions, it is evident that the Gomastah Juddoo Moozomdar, having demanded from Muddun Dey Co.'s Rupees 250, on account of chout or ¼ value of a tank dug and house sold by him, was refused by Muddun on the plea of his not having sold the house. This created an ill feeling between the parties, and Muddun Dey was in Ugrahan last captured and sent into the Zemindar's house, where he was confined and compelled to execute an agreement to pay the amount of Rupees 250, in monthly instalments of Rs. 50. The Gomastah, Juddoo Moozomdar, having threatened Muddun and adopted measures for the realization of the above amount, he on Pouse last petitioned to the Court, and Juddoo Moozomdar and others were brought in the Thannah, and bound by Ikrar to keep peace. These circumstances doubled the ill feeling, and Gomastah Juddoo Moozomdar, Nugdy Kabul Sing, Juthen Bagdee, Gonoo Bagdee, Hera Bagdee, of the Zemindar Joykissen Mookerjea's service, at about 11 A. M., Tuesday, the 19th January, 1858, corresponding with the 7th Maugh, 1264, plundered paddy, rice, and dhall (about 20 or 25 maunds), 6 gunny pieces and 80 gunny bags, &c., from the joint shop of Muddun Dey and Juddoo Nundy, at the Bulluttee

Bazar ; and all the gunny pieces, &c., valued at Co.'s Rs. 149-8, belonging to the said Muddun Dey, which were lodged in the house of Deno Paul, were carried away by coolies of the Haut and Korrahs under cover of false Bestum proceeding, instituted by Lall Mohun Moorkerjea, Gomastah of Kristpore, against Kally Kristo Napit and Goluck Ghose of Bulluttee.

In the latter end of Maugh last, Gomastah Juddoo Moozomdar, Kabul Sing, Jutten Pyke, and Kally Ghose, carried away about 45 mauuds of jute, the property of Muddun Dey, which were lodged in Juggo Paul's house, under cover of legal proceedings instituted against one Neloo Ghose of Bhascoor. When the Thaunah Mohorir was deputed to hold an investigation of the case, no one ventured to prove it, through fear of the Zemindar. The Gomastah Juddoo Moozomdar pretending to compromise the case made false friendship with Muddun, and at about 2 or 3 P. M., Monday, the 5th Falgoon, he called Muddun from his house by witness Gobindo Paul ; and near the bridge on the south of Narain Paul's gardens, he (Muddun) was made captive by Ramdyal Sing, Madub Nai, and two other Latteals (whose names are unknown), and carried away by the road in front of Bulluttee School, and shortly after this Kabul Sing, Jutten Purroo, Harran Pyke, ran after them. Under the orders of Hoojoor's Perwannah, the prosecutrix and her witnesses as per seperate challan are sent in. The remaining points of investigation not being concluded, it is hereby reported further:—that about a month and a half elapsed Juggut Paul of Bulluttee who had been to call the Ghattee Burkundaz on behalf of Muddun Dey, has been captured and incarcerated in the house of the Zemindar. This circumstance has rendered the whole of the villages afraid of the Zemindar. There being every possibility of breach of peace, the deputation of Police Amlah is deemed neceessary. Twenty sheets of investigation papers are herewith sent. The statement of Juggo Paul's mother is sent under separate cover.

(Sd) PRUSUNO COOMAR GHOSE,
Darogah.

B

Filed before the Magistrate of Howrah.

Petition of defence of Juddoo Nauth Moozomdar, Gomastah of Bulluttee, Thannah Doomjoor.

Averments are that the petitioner defendant having been sent in by the Darogah on the charges of plundering and making away with the husband of the prosecutrix, appeared before the Court, and having filed a verbal answer, has been admitted to bail. Now, having taken copies of depositions, &c., he begs to submit a detailed defence of the charges preferred against him.

1st. The complaint of the prosecutrix is founded solely on malice and machination of some ill-disposed persons, which shall hereafter be proved; no property belonging to the husband of the prosecutrix has been plundered, her husband himself arrested and sent in by the petitioner defendant, and confined in the house of his employer Joykissen Mookerjea, nor the servants in the employ of his master have done so. The prosecutrix's husband is a defaulter, and owes the Mahal in charge of the defendant a considerable amount of rent. Had the realization thereof been deemed necessary to attach and sell any portion of his property, what there was then to prevent the adoption of legal proceedings under Regulation 5 of 1812? The facts of the case are:—*On the 24th of Poose* last, Lall Mohun Mookerjee, Gomastah of Baboo Bejoy Kissen Mookerjee, Zemindar of Kistopore, *served a notice under Regulation* 5 *of* 1812, *for the realization* of Rs. 83-13-5, being the amount of rents due by Kally Kissen Naupit and Gulluck Ghose, inhabitants of Bulluttee, defaulters of that estate. On the expiration of the term allowed by law, *an application for aid under* Regulation 20 of 1817, to attach the property of the defaulters, was made at the *Thannah of Chundeetalah*, upon which *Muzcooree Peon Peary Summut* was deputed. On the 7th of Maugh, Vaktapoose and 5 items of personal property belonging to the defaulters, which were in the shop of *Juggo Nundee*, and in the house of *Deno Paul*, were attached and placed in charge of Kally Myter. On the 19th idem, the acting Gomastah *of Bulluttee, Surgeeoomar Mookerjee, instituted*

proceedings under *Regulation 5 for the realization of Rs.* 80 4, *on* account of principal rent and interest for the kists up to Poose, due by *Neellu Ghose, a defaulting* ryot of Bhaskoor (mahal also in charge of the defendant) against *Jugyo Paul, manager of his lands, and attached some jute, &c., which were on the 25th of the same month sold by the Frosh Ameen of Rajahpore*, after issuing the requisite sale notice; and on *the 15th idem the attached* property of *Kally Kisto, Naupit, &c.*, was similarly *disposed of. Bhootnath Baugdee* and others purchased the abovementioned articles. The defaulters nor the alleged owner, *the husband* of the plaintiff, adopted *any measures* for the release *of their properties* attached according to the provisions of the law, but *Muddun* presented a petition to your Honour on which you were pleased to order a local investigation. The Mohorir of the Thannah went to the spot on the 12th February last, when the alleged *co-partner, Juggo Nundee, and several other shopkeepers*, deposed to the effect that the *petitioner defendant* was innocent, and that the Gomastah of Mouzah, Kistopore Lall Mohun Mookerjee, had seized the property under a legal process. On receiving this report an order was issued from the Haujoor, to send into the Haujoor's Court *Muddun Dey and your petitioner, on which Hashmut Khan*, a Thannah Burkundaz, was deputed to Bulluttee. The brothers-in-law of Muddun, by name Callykissen Set, Gooroodas Dey, and others, gave a written kyfeat to the Burkundazes, stating that about *two days ago Muddun* went to the Howrah Mooktear's. *The Burkundazes took your petitioner to the Thannah with this kyfeat*; *from thence* he was forwarded to the Haujoor. In the mean time, at the instigation of *Bhollanath Coondu and other Zemindars of Goyashpore*, who are on bad terms with the defendant's employer, and by the advice of some of the Dhaurumghuttee ryots of *Bulluttee*, Joynarain Haldar, a ryot of Coondu Zemindar, on the 18th February secretly *filed an information before the Darogah that the said property had been plundered* by your petitioner, and the value of which was between 3 and 400 Rs., and that *Muddun Dey the husband of the prosecutrix had been* arrested and carried away to

the Zemindar's house at Oooterparah. On this the Darogah, who was not at all well disposed towards the defendant, went to the spot, and took the Ijahar of the prosecutrix, *on the 24th February, when*, by a system of coercion almost amounting to torture, the Darogah compelled most of the witnesses *who had deposed before the Mohorir to give a different* version of the affair, and while under the influence of that fear these witnesses were sent to your Haujoor, and made to adhere to the later statements. Even the evidences thus obtained differ so much with each other that they deserve not to be believed by the Court.

2nd. The statement of the prosecutrix is false, because, had the property of the defaulters, *which were attached, actually belonged to the prosecutrix's husband and his alleged co-partner, Juggo Nundee, then they would have, as they were* aware of the case, applied for the release of the property under Section 2 Regulation 10 of 1846, during the interval *of* 10 *or* 12 *days*. This circumstance would suffice to prove that the husband of the prosecutrix and his alleged co-partner had no connection with the property. It is more probable that the Dhurumghuttee ryots of the village, the defaulters, and others, having *concealed Muddun in a safe* place, have brought forward this false charge to ruin the defendant. Had the statement of the prosecutrix been true, then there would never have been such grave inaccuracies about the value of the property said to have been plunderered. Joynarain Haldar stated the property attached to be *worth* 3 *or* 400 *Rupees, and Muddun himself said Rupees* 1,000, *and* the prosecutrix asserted 7 or 800 Rupees; whereas the alleged co-partner, Juggo Nundee, and the witnesses on her behalf, valued the property to be 100 or 125 Rupees. As the amount value of the property differs so much in the eyes of self styled owner, his shop partner, his wife, and witnesses on behalf of the prosecutrix, it would be for the Court to consider whether these parties have not made themselves amenable for perjury.

3rd. On the 8th of Maugh, when the property was *attached, Muddun himself went to Thannah Doomjoor, to lodge an information* thereof, which is entered in the Rojnamcha Book of the Thannah.

On a perusal of this diary, it would clearly appear that by the statement of Muddun himself, Lall Mohun Mookerjea, Gomastah of Kistopore, attached and carried away the property under a legal process, and not by the defendant.

4th. The statement of having captured and made away with the husband of the prosecutrix is not of a less fraudulent nature. In the first place, is it probable that such an attempt would be made in broad day-light by two or three persons on a public road before a Government aided school, and send him over to a distance of 7 or 8 miles through thickly populated villages where there are several Pharees and Police stations? Nor is it less improbable that the captured would have gone on all this distance without making a noise, or that his wife, co-partner, and a host of relations amounting to about 50 or 60, all residing in the same locality, seeing that he was thus carried away would not have attempted to rescue him, and to raise a hue and cry after him; or would they not have immediately given notice of it to the Police Burkundaz close at hand? Muddun himself is a shrewd, intelligent man, and his relations are not less so, as the Haujoor can bear testimony to the same: what would induce such people to remain deaf and dumb when such an outrage was committed? It is nowhere stated that the Gomastah had any number of Latteewallahs to induce such result. He is said to have been accompanied by 3 or 4 villagers, and the pykes: or could he not have been removed by a gully path and in the evening, instead of by the public road and about 2 or 3 o'clock in the afternoon, as is alleged? Some of the witnesses have deposed that the occurrence took place in the latter end of the month of Maugh, whereas others said it to be on the 8th, 10th, and 12th of that month. The witness *Gopaul states* to have seen Muddun being captured by three persons whose names he does not know; Gorachand Gollah says by 4, *Ramcoomer* Khamaru *stated to have seen* an unknown person captured by two persons unknown to him, and witness *Gobindo Paul*, who states to have called in Muddun himself, Dwarkanath Mullic, Pancho Paul, and the defendant were talking with each other, and pacing

westward, and *shortly afterwards he heard that Muddun was* captured and carried towards north. Although these witnesses have deposed under pressure yet their evidences differ materially with each other. Had the fact of the capture been true, then Ramcoomar Khamaru, a close neighbour of Muddun's, and well acquainted with him, who deposed to have seen one person captured and carried away, could have easily identified whether that individual was Muddun or otherwise; and of the remaining witnesses one would never have stated to have seen two, the other three, and a third party four persons to arrest Muddun. It is not improbable that two or three persons, with a view of harassing the defendant, might have conspired and passed northward through the road before the school. Under these circumstances the defendant cannot be deemed guilty of the charge with which he stands indicted. Moreover, not a single witness has deposed to have seen him (defendant) to capture and carry the man northwards.

5th. Although, in the depositions of the prosecutrix's grandson *Kylas, and a few others* of his fellow students of the school are said to have stated before the Darogah that some persons arrested and were taking away Muddun, yet no mention of the name of the petitioner defendant has been made therein. Had the petitioner defendant or any other servant of his employer actually captured and carried away any person, he would have never been taken to the Zemindar's house through a thoroughfare passing by a school house while there were private passages. As *Muddun is said to have disappeared more than a month, had his capture*, &c., been true, then his relations might have by this time made out his whereabouts, and reported it to the Police, particularly as the Darogah has received orders to search any house he likes without order, if he suspects Muddun is secreted in any place.

The manner in which the Darogah, who is ill-disposed towards the employer of the petitioner defendant, has extorted the evidences of the witnesses (who are always in terror of Police authorities) on behalf of the prosecution, is a matter of grave consideration. The witnesses who were previously ex-

amined before the Mohorir of the Thannah, were threatened to be pressed with a bamboo or of plunging in the rivers, and placed Burkundauzes at their doors to prevent egress or ingress of the females, and held out hopes of the Mahal or Estate being execheted to Government and thereby a deduction of the Juma, if the conviction of the Zemindar's people can be secured. If the Hauzoor be pleased to proceed to the spot all these misdeeds of the Darogah will come to light." Moreover, the Darogah has not taken the evidence of *Dwarkanath Mullick and Panchu Paul*, in whose company Muddun was said to be at the time of his capture. Those two witnesses are named by the prosecutrix and whose evidences appears to be material to the point at issue, have not been sent in by the Darogah.

The petitioner defendant has been the Gomastah of *Bulluttee* for about 8 or 9 *years, during which period*, he presumes to state, no complaints were made against him; had he been a man mischievously intent he would have long ago been indicted, or at least calumnized for his bad deeds before the public officers. The cause of the institution of the present case is *conspiracy, as explained* above. The informant *Joynaraın Haldar, a ryot of the Koondoo Baboo's*, having some relationship with Ramanundo Paujee, one of the Dhurrimghuttee ryots of Bulluttee, has with the aid of his Zemindars undertaken the management of the case, secreted Muddun at a distant place.

C

Copy of the Howrah Magistrate's decision, dated 20th Apil, 1859.

KEENEE DASSEE.

vs.

JUDDOONATH MOOZOMDAR, GOMASTAH, AND OTHERS.

There has been a continuous series of oppression by the defendant Juddoonauth, against Muddun Dey, now alleged to have been forcibly carried away and concealed, and it has "culminated" in the present case. As regards the extent to which Baboo Joykissen Mookerjea, the master of the defendant Juddoonath, is implicated, there is not, nor is there, any hope of obtaining just now any proof.

But as regards the plunder of Muddun Dey's property by the defendant now punished, there is ample and clear proof.

The former papers filed with this case show that the defendant Juddoo, with others, in this case, after repeated warnings was bound down to keep the peace: this order was upheld in appeal. The present case is attended with all those difficulties which almost invariably exist in these "Goom cases." Whether the man has really been concealed or not, cannot be legally clear until he appears; I prefer therefore not to punish the defendants on that part of the charge, leaving them, as well as the Zemindar himself, liable to punishment, if the case is hereafter proved.

I punish the defendants for loot and plunder of the missing man's property. They are clearly proved to have committed this loot, both by the police reports and the evidence (vide especially, but not exclusively, evidence of 1, Prosecutrix, 2 Essar Nundee, 3 Khetter Paul, 4 Gooroo Doss Dey). It, in my opinion, rather aggravates than palliates their offence, that this gross oppression was committed under the shadow of the so-called law. If these men were to be exempted from punishment merely because they acted under an alleged "punjum" or "bestum," we should have nothing but the laws used as a cloak for all sorts of wide-spread oppression. The state of things is bad enough already, and to countenance such proceedings as in the present case would make them infinitely worse.

For, in the present case, even the impudent pretence of the punjum is a shallow pretext. Nothing is brought to show that any notice was issued; it is not likely that it was; not surely Muddun, who had been perpetually complaining, would have brought the matter into Court. The shop was notoriously that of which Muddun was a sharer. There is nothing brought to show why the oppressive Juddoo (defendant and Gomastah of the village) should have supposed that the property of Muddun was that of the alleged defendants in this spurious "punjum." What power had the Chundeetollah (Serampore) Piada to assist in this distraint and seizure in Bulluttee (Thannah Doomjoor, Howrah)?

To epitomize :

1st It is clear from the previous papers (vide Nuthee A) that all sorts of oppression had been exercised against Muddun Dey by the defendants Juddoonath and others.

2nd. It is equally clear that on this occasion this oppression culminated in the seizure of Muddun's property.

This is not denied even.

It is more likely that the spurious punjum was used to cloak gross oppression, than that Muddun's property out of Muddun's shop was taken by mistake for the property of two alleged defaulters who had nothing to do with that shop. The alibis I treat as so much waste paper. The presence of all the defendants is clearly proved, especially by the evidence and reports noted above. For this gross loot and plunder I punish the defendants as noted in Col. 8.

If the missing man is found, I shall re-open the case against those defendants and the Zemindar. Meanwhile, the Darogah is directed to institute separate enquiries against the Zemindar for oppression of the prosecutrix during the trial of this case. This investigation is now going on. The defendant Lall Mohun, who is apparently a mere tool in the hands of the other defendants, is conditionally discharged.

(Sd.) J. J. GREY,
Magistrate.

Howrah, 28*th April*, 1858.

D

No. 121.

Howrah Magistracy, the 3rd March, 1858.

TO BABOO JOYKISSEN MOOKERJEA,
Zemindar of Ootterparrah.

SIR,

On the 28th ultimo, a summons was issued by me upon you, to give your answer in the case noted,* the prosecutrix having stated on oath that her husband had been forcibly taken

* Keenee Dassee, *vs.* Juddoonath Moozomdar, Gomastah, and 5 others.

away, and that she believed him to have been taken to your house.

2nd. The case, if true, was attended with other circumstances of violence and outrage, of which it is quite impossible that you should be unaware, and of which no notice seems to have been given to the Police.

3rd. Two Burkundazes appointed to serve the summons under due endorsement by the Joint Magistrate of Serampore, state that some persons whom they represent to be your own dependents, and who were on or near to your premises at Ootterparrah, gave no information as to where you might be found, and no receipt (in your alleged absence) for the summons.

4th. I have this day issued a fresh summons for you to file your answer personally *or by Mookhtear* in the case on or before Monday next, the 8th Instant, and it will be well that you attend to it.

5th. The Joint Magistrate of Serampore will pass such orders as he may think proper on those of your dependents who may really have acted contrary to law in not giving a receipt for the summons endorsed by him.

6th. Papers relating to **land-claims* or *roads*, &c., *find their way into your hands speedily, and are at once attended to; and of course I shall bear this in mind in considering your proceedings in the present case.*

7th. I shall not refuse to receive any written explanation you may wish to offer, but you will distinctly understand that such explanation will not be allowed to preclude or delay the filing of your answer on Monday next, nor to interfere with any other proceedings which may be required.

8th. You will, at all events, please to acknowledge the receipt of this letter, of which I shall send one copy to the Joint Magistrate at Serampore, and another to the Commissioner of the Division, who, as Magistrate of Ootterparrah and as head of the Police, should, I think, be respectively made aware of what has occurred.

* The italics are ours.

9th. I have always shewn all proper consideration for the position you fill, and I trust you will not compel me to prove now or hereafter that this consideration must yield to the requirements of the Law.

10th. My Burkundazes saw the defendant, Juddoo Moozomdar, your Gomastah, at your house when they went to serve the summons.

I am,
Sir,
Your Obdt. Servant,
J. J GREY,
Magistrate.

E

J. J. GREY, ESQUIRE,
Magistrate, Howrah.

SIR,

I have the honor to acknowledge the receipt of your letter No. 121, dated 3rd instant (forwarded by my Ooterparah Omlah), and which reached me here this morning. I hasten to reply to it by this day's post.

I am not aware of my Gomastah of Bulluttee having forcibly taken away the husband of Keenee Dassee, and that no such person has been sent to my house at Ooterparah. I left Ooterparah on the 23rd January last, by the morning train, on my annual tour of inspection, which has been delayed this season in consequence of my mother's death and Shraud. From that time I am travelling into different places situated in the Hooghly, Burdwan, and Midnapore districts, and since that time have visited my home only once, on the 6th February last (Saturday); when I went down by the morning train, transacted business at Calcutta, remained the following day (Sunday) at home, and started again next morning by the train for my estates lying close to Dhunnakhally. Thence I went towards Jehanabad, Chunderconah, Madabpore, and latterly to Cow-Chur, in

the Burdwan district, bordering on Beerbhoom. From the latter place I have reached here yesterday. From this you will be pleased to observe that I was not in a position to know from personal knowledge of any outrage that may have been committed at Bulluttee, a place 60 or 70 miles distant from the villages where I was travelling, during my absence. Nor do I think, from the information before me, that any outrage of the kind mentioned in your letter was perpetrated. In the course of enquiries you are making, you will find that the present complaint is one of a series of false complaints determined to be made against my Omlah by a certain number of ryots leagued together into a Dhurmaghot, at the instigation and under the influence of a powerful Zemindar.

You will also be good enough to see reason of my not being able to file this day—as required by you in the letter under reply, as I received that letter only this morning at a place more than 70 miles distant from Howrah,—an explanation on the subject; but I have lost no time in forwarding a Mookternamah with an explanatory petition, and which will be forwarded tomorrow morning and presented to your Court as soon as possible; certainly, not later than Friday next. I hope the delay would not be considered unreasonable, considering the distance at which I am living. Had I been at home I would have responded to your call the very next day on which your requisition was made, and thus have avoided giving you the trouble you have had, in writing to Serampore, and by post, &c., &c.

Regarding that part of your letter in which you state that my Omlah at Ooterparah declined to give any receipt for the summons or information as to my whereabouts, I am enabled to state from the information I have received from my house, that so far from their declining to give a receipt, one of my Omlah had actually, on the requisition of your Burkundaz, deputed a Nugdee, by name Hullodhur, to accompany them to Chunderconah, where he supposed I was living at the time; but because the Burkundazes knew or supposed to know that you were in an angry mood, they

wanted to take advantage of the occasion and demanded a fee, which my Omlah very properly declined to give, and hence the fiction of refusal, &c., &c. I beg to submit what object my Omlah could have had in acting as has been represented to you by the Burkundazes? You know me sufficiently well to believe such stories. I am the last person to defer giving explanations called for by a Court of justice, and particularly when no benefit can possibly accrue to me by the delay of a few days.

I have, &c.,

(Sd.) JOYKISSEN MOOKERJEA.

Jeerat Moondomallah, bordering the Bugree Jungles, 8th March, 1858.

F

Copy of the Session Judge's Order dated 26th May, 1858.

JUDDOO NAUTH MOOZOMDAR AND OTHERS, *Appellants.*

This is an appeal against the orders of the Magistrate.

The appeal briefly is,—technical, and upon the merits.

Technically, that the appellants applied to have the witnesses for prosecutrix examined in his presence, or cross-examined.

This objection is sustained.

On the merit, upon the question of jurisdiction, whether the remedy for colorable distress is not in the revenue Courts.

Third parties may replevy under X of 1846.

The penalty is provided under Section VI Regulation 17 of 1793: (1) restoration of property or its value: (2) a fine *equal* to that value; and (3) the costs. Thus there are ample remedies. It is difficult to say where the civil jurisdiction ends, and the criminal one commences, so as to vest the Magistrate with authority. It is difficult and much involved. But there has been a very gross case of assault committed, *as per the Darogah's report* of the 25th of February: I see no reason to doubt that report. It appears too that the husband of the prosecutrix was forcibly carried off to the house of Joykissen Mookorjea.

It appears further, that one Juggo Paul had been similarly abducted, when he went to give notice to the Police Pharee, and not being released for six months, that abduction caused great fear and consternation.

From the records, I am of opinion that the Zemindar is personally responsible: parties are violently carried off and taken to the Zemindar's house, and then they disappear.

The authority of the Magistrate has been feebly exercised in this case. I see no steps taken with a view to search that house of this Zemindar.

Is the house of a Bengallee Baboo, however wealthy, within a few miles of the Government house to be beyond the possibility of examination and search upon sufficient ground? What further warrant can the Magistrate require than the deposition of the wife of the abducted husband, or the report of the Darogah, who might else be examined upon oath if an additional deposition was needed? The Magistrate proposes to reopen the case. The Zemindar I hold to be responsible for that man's production. He was seized violently by his men, removed to his house, and the Magistrate should hold the Zemindar strictly to his responsibility.

The case goes back upon the technical point; the witnesses must be produced in Court in order to give the opportunity of cross-examination.

It will be within the Magistrate's discretion to institute further enquiries, or receive additional evidence on either side or not, but I am certainly of opinion that the Zemindar should be brought to trial, acquitted, or convicted, punished by the Magistrate or committed, just as may appear the proper course. The people look to the Courts for protection, and they are entitled to it.

The appellant will remain upon the former bail, unless the Magistrate deem it expedient to reduce the amount.

(Sd) J E LATOUR
S. Judge

May 26, 1858

G

26TH FEBRUARY, OR 16TH FALGOON, 1264 B. S.

Keenee Dassee, of the Talee caste, wife of Muddun Dey, inhabitant of Bulluttee, Thannah Doomjoor, aged about 45 or 46 years, appeared before the Court, and solemnly declared:— During the last rainy season a boat load of black peas belonging to my husband and other shopkeepers was brought to Bulluttee by an unknown mangee, who kept the boat at Hatkholah Ghat. Juddoonath Moozomdar beat the mangee for doing so. All the shopkeepers complained to Baboo Joykissen of his conduct, and succeeded in getting him punished. This enraged the Gomastah very much. After the Doorga Poojah holiday, he caused my husband to be arrested by a peon, and brought before him; then he sent him to Baboo Joykissen Mookerjee Zemindar's house at Ooterparah, on plea of his (my husband's) not paying down Rs. 250 as the chout or fourth part of a thousand Rupees which he realized by selling his house. He was severely beaten there, and compelled to sign an agreement binding him to pay the above sum by monthly instalments of 50 Rs. each: he being let off then, came to his house. After a fortnight, the Gomastah Juddoonath Moozomdar again demanded the money, and sent with him a nugdee to his house to bring it to him, but my husband concealed himself, and hastened to lodge a complaint before this Court. The Gomastah, giving full vent to his fury, tried every means that his head could devise to injure us, and instituting a false *Bestum* suit against Golluck Ghose and Kally Kisto Naupit, plundered my husband's shop before the Sreepunchumee Poojah, and carried away the booty to Kally Gangoole's house; a chest, a cot and a quantity of paddy and rice were taken away by Kaubul Sing, Juttun Pyke, and several others. Two days since, all the things were sold by auction. Not content with this, the Gomastah, together with Juttun Pyke and Harran Pyke, took away a large quantity of jute (belonging to my husband) kept in the house of Juggo Paul, under the cloak of the Punjum law which enforced against Nilob Ghose. The Thannah Monshee came to investigate into

the matter but to no purpose, as the Gomastah by that time had succeeded in persuading my husband to hush up the case. Two or three days after, Juddoo Moozomdar came to my house, called my husband to accompany him, and as soon as he (my husband) had done so, he was placed in custody of five or six latteals, who instantly, as was previously instructed, carried him away to the Zemindar's house. Since that time he has not been released. One Anundo Gangooly of Bulluttee, in combination with the Zemindar, is trying to dispossess me of my dwelling house. About two or three days ago the Darogah of Doomjoor held a local investigation into the above circumstances; and that, under authority of false Punjum suits, they have plundered our things and forcibly taken away my husband, has been fully brought to light.

On being questioned, stated that she was not eye-witness to the plundering the shop, but she did see them taking away the quantity of jute from Juggo Paul's house, and that her husband having concealed himself, could not oppose them on both the occasions.

Q. Can you say where your husband is now?

A. Very probably he may have been carried to the Zemindar's house.

Q. How do you know that Juddoonath Moozomdar Gomastah, and others, have plundered your husband's shop when you have not seen them do so?

A. The people in the Haut saw them plunder the shop, and I have heard the news from them.

Q. Did anybody call your husband on the day he was captured?

A. Gobindo Paul came to my house and called my husband, saying that Juddoonath Gomastah wanted him; soon after, hearing that they were forcibly taking him away, I ran to the place and saw that it was the case.

Q. In the Mofussil somebody asserted that the plundered things were taken to the house of Deno Paul: how is it that not a single person said anything concerning the matter before the Court?

A. Yes, quantity of paddy was kept in his house.

Q. Have they taken away and confined any other person besides your husband?

A. Yes: at first they took away Juggo Paul and then my husband: Juggo Paul was confined for fear that he should assist my husband against them.

Q. Lastly, what act of oppression have they done towards you?

A. They threatened me not to go to Court for justice, but I ran away from my house and concealed myself for two days.

Q. Are Gulluck Ghose and Kally Kisto Naupit shareholders in the shop with your husband?

A. They have no shares in the shop. They are inhabitants of Bulluttee, and I know them.

Q. Can you declare upon oath where your husband is now?

A. He has been taken away by the Zemindar's people, and I think he must be at the Zemindar's house.

Cross Examination on the 7th July, 1858.

Questioned by the Court, stated:—I saw my husband carried away from behind. He neither saw me, nor had he any talk with me at that moment. How can I say whether any one else saw him or not? When I saw that my husband was thus taken away, I returned home crying. To whom I first spoke about the capture of my husband I do not recollect, being a female myself, and the event having occurred a long time. I have not seen my husband for three and a-half months after he was carried away, and I can declare on oath that he was not in the village during that time. When my husband was being carried forcibly away, I saw from near the school-house that he was taken over the field or julla. I have had no conversation at that moment, either with the masters or pupils, and from the place I saw my husband taken away the school was distinctly visible. I do not know any of the school Baboos, nor have I seen any one of them.

Being questioned by the Plaintiff's Mooktear, said:—I saw my husband from a distance of about 200 hands taken away and

pushed by the neck: whether my husband was crying at the time or not I did not see.

Being interrogated by the defendant's Mooktear stated:— Juddoonauth Moozomdar, in order to compromise the matter, came and spoke to my husband about it, and taking hold of his hand went away from the Thannah Moonshee. This circumstance my husband communicated to me on his return home.

Being questioned by the Court stated:— 3 or 4 days after Juddoo took hold of my husband's hand, my husband was carried away.

Being questioned by the defendant's Mooktear, said:— When Juddoonauth Moozomdar went away with my husband I was in the *Ghat* of my own pond. I heard Gobindo's voice when he came and called my husband: he said Juddoo Moozomdar has sent for my husband. At that time Juddoonauth Moozomdar was standing on the road, but I did not see him then. My house was not far off from the same road. The road was on the outside of my house. If anyone be on the outside of my outer door he could not be seen from the pond where I was. Coming home from the Ghat, I saw my husband and Gobindo going one after the other; my husband before, and Gobindo followed after him. I did not see Juddoonauth Moozomdar then. He was on the road. On my way home from the Ghat I saw Gobindo Paul and my husband going northward. I subsequently heard from Gobindo that from northwards they turned westward. Gobindo's house is close to mine: he was making *Baccaries* in the front of his house. He was at home all the day. My husband was taken up on the afternoon: it was not a late hour. My husband was out on the same morning, but came back, bathed, and dined, and remained at home. At the time of Gobindo Paul's calling my husband, my husband was talking with the mother of Juggo Paul in the joint house of Juggo and Gobindo. The distance between the place where Gobindo was making his *Baccaries* and Muddun speaking with Juggo Paul's mother was less than a hundred hands, and there stood a house in the intermediate space preventing any sight from both sides. Go-

bindo was making *Baccaries* on the north side of my house, and the pond is on the south side. The road on which *Baccaries* were being made is a public road. My husband coming out northward from our house went to the westward. The road is from east to west, and adjoins my house. The rumour of my husband being carried away by Juddoo Moozomdar being spread all over the village, I went to see. I heard from five or six passengers of the road, who were going from west to east, and who were talking on the same subject, mentioning my husband's name. My husband is known to all. No one gave any notice to my house about his capture. About two or four *dundos* after my husband was taken away, the above rumour arose. I went to the school side being told by the passengers that my husband was taken that way. Gobindo Paul was at that time preparing *Baccaries*. He also heard the same rumour. Gobindo did not then accompany me, nor did I did call him. I ran as soon as I heard the rumour. When I reached the distance of more than a *dak*, I saw my husband was being carried away. The schoolhouse is more than a *dak* distant from my house. Both sides of the road leading to the school are inhabited. When my husband was being taken away by the school, I saw him from behind, and could not see his face.

Questioned by the Court stated :—I could have recognized my husband by seeing him from behind, even if I were not told of his being carried away.

Being interrogated, said :—I saw my husband at a short distance from the school. My husband was about 200 hands distant from myself; he was being taken to the north side of the school, and I do not know the names of those who were carrying him away. I did not call anybody for assistance, but returned home crying. I am a *Bowlock*, *i. e.*, a domestic female, and how could I give notice to the school? I ran on the road as if my life was in danger; and who else were on the road I did not perceive. I did not see Prem Chund, Chowkedar. Koylas the boy is my grandson. He was reading in the school. My husband had desired Koylas to convey this notice

home : he came by one way and I went through another The little road that leads to my house joins the main one at a little distance from my house. I went through the little one, while Koylas came by the main road. When Juddoo Moozomdar sent for my husband by Gobindo Paul, I heard that he was called to go and inspect Chut, or gunny pieces at Mudoo Ghose's house. I heard all these words from the mouths of the females of Mudoo Ghose. My husband was carried away by Juddoo Moozomdar, Harran Bagdee, Jotun Bagdee, Kabul Sing, and Gooce Bagdee. Juddoo Moozomdar followed them. I have not seen Juddoonath beat or strike my husband. There were two or three others there; I neither know them nor their names. These carried away my husband, and those that I named above accompanied my husband.

Q. You stated in the Mofussil that four or five men on the part of the Zemindar and Gooee Bagdee beat and carried your husband away. How then you mentioned in Court the names of several persons, and said that there were other unknown persons?

A. I am a female, and have stated exactly what I have seen. It is a long time since, and therefore I cannot distinctly recollect it. I recognized Haran Bagdee and four others from having seen them at a distance of 200 hands from the school. I afterwards said that I saw my husband from the same distance, but the five persons were one hundred and fifty hands distant from me; and among them Kabul Sing, Jotun, Gooee, and Juddoo Moozomdar were recognized by me, by their looking back. These were going one after the other with the captured, and were assisting the captors.

Q. You stated that three men carried away your husband and five others followed them. How then are you aware that they were all engaged in one object, namely that of carrying the captured away?

A. I know them to be for one business, from some of them running fast one after the other.

Q. Why did you not mention their names before?

A. I am a female and their names did not occur to me, therefore I did not give their names.

Being questioned, answered:—I stated the affair before the Darogah when he came to investigate the matter, after eight days' capture of my husband. I am a helpless woman, and have no friends who would take me here and there; I therefore remained at home crying in a helpless state. The defendants whose names I have given are now at Bulluttee, and were present when the Darogah was deputed to investigate the matter. I fully remember having given their names when the same enquiry took place. The Darogah did not send for them.

Q. Did you send any notice to the Ghattee Bhascoor which is not far from your house?

A. I sent information to the Ghattee Phareedar Police Officer on the day of the capture, and he forwarded his report to the Darogah.

Being questioned, stated:—Since the return of my husband, the Darogah did not come to my house. He only came to the school once. Joynarain Haldar always frequents my house; how many times he has come I cannot say. After my husband's return he used to come to the Cutchery and return home every evening. He did not stop in my place on any night. My husband did not go to the North Western Provinces ere this without telling me; when he was gone he told me of it.

Being questioned, stated:—My husband was once gone to Dacca and once to the Upper Provinces. He was a Commissariat Gomastah. Joynarain Haldar is my Tudbeerkar, *i. e.*, manager, in this case, and he is come with me here this day. I know not whose raeet he is. No Police Burkundaz is come with me this day.

Questioned by the Court, stated,—I did not know that Gobindo was to carry away my husband. I heard from the passengers only and from none else

In reply to question, stated.—I know Gunganarain Ghose of Bhascoor, but do not know who Bibdonath is, Gunganarain gave his deposition before the Daroga.

Being questioned, stated:—I could not come when other witnesses came on account of ill health.

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14TH JEET, 1265 B. S, OR MAY 26TH, 1858.

Plaintiff Muddun Mohun Dey, son of Ramgopaul Dey of Bulluttee, taking the usual oath deposed as follows :—

Q. What are the particulars of your case ?

A. *On the 5th or 6th day of Falgoon last*, at about 3 or 4 P M, when I was going to the *Mal Cutchery* of the Zemindar Baboo Joykissen Mookerjea, I *met the defendant Juddoonauth Moozomdar* on the public road near the tank of *Issur Mookerjea*. We then both proceeded to the northward Meantime there arrived three other men, one of whom at the signal given by Juddoo came up to me and said, "Is your name Muddun Dey? You have been summoned under a Huptum case" Saying this all those three persons caught hold of me by the neck, and carried me away to the north towards the house of Narain Paul, where I was *met by Premchund Chowkeedar, to whom I said that I was unlawfully carried away, upon which the said Chowkedar caught hold of my hands, but being threatened by the Defendants he was obliged to let me off.* I was thence carried away at about 7 or 8 P M. to the house of the said Baboo at Ooterparrah, where I was kept in the *Daooree* At 12 in the night *Saddoo Sing, Saddoo Bagdee, Nugdee*, and Chintamoney Roy told me to prepare myself to go to *Dwarbassiny Cutchery* where Bora Baboo was I was then taken up in a boat and carrried up to Chinsurah ; from thence I was sent to the *Dwarbassiny Cutcherry* I was sent there by the *orders of Bejoy Kissen Mookerjee. and the Dewan Issur Chunder Mookerjea.* At 11 A. M. of the next day, I reached *Dwarbassiny*. The Naib of that place being then absent, a letter was given to the Karkoon *Bolaram Sircar*, and Cashkeeper Boyrub Chuckerbutty, and by their orders I was kept in the Mal Cutchery under the guard of Saddoo Sing and two others of that place. Here I was thus kept for 10 *or* 12 *days, after which* I was removed to the house of one *Greedhur Puttuck* of the same village, for at least 12 *or* 14 days, at the expiration of which *on the 4th Choit last the Naib Anund Chunder Bonnerjee told me, that as the police was on the look out for me, it was expedient that I should be* removed to some other

place. Upon this I was removed to *Kistopore*, under the guard of *Sadoo Sing, Ramtahal Sing, and a Jemadar named Greedhur Puttuck*, who went back after having kept me in the house *of Turruck Mookerjee*. There I was kept for 10 *or* 12 days, and from thence I was removed to the village of *Milkee, and kept* in the house of *Madhub Bhuttacharjee* for 5 or 7 days. From that place I was again removed to the village *Goaee* on the 22nd Choit, and lodged in the house of *Mohes Bannerjee*, who is a Gomastah of the *said Baboo*. Yesterday I was released from that place by the Moonshee *of Thannah Doomjoor*. At the first instance I was arrested by three men, none of whom appeared to be a summoning peon of any huptum case, and none of them had any Government badge. During this period of confinement I had no interview with Baboo Joykissen Mookerjee. I was always kept under guards, and sometimes kept *in a closed room. I had* received no bodily injury from any one, but the Burkundauzes had sometimes pushed me by the neck, and treated me with abusive language.

Q. State what are the [redacted] that led to your illegal confinement.

A. I had instituted a case of plunder against the defendants Juddoonauth and others, for plundering my property from my joint shop, under pretence of a punjum case instituted in the names of other parties. The defendant Juddoonauth had requested me to compromise the matter, to which I agreed on condition that I should be restored to the plundered property. I was then carried away with the view of having my case struck off for want of prosecution on my part.

On being asked by the Court said.—The village Bulluttee is not within the circle of the Dehee Dwarbassiny, but in that of the Sudder Dehee of Ooterparrah ; and that Sadoo Sing and Ramtahul had accompanied him throughout this confinement.

Q. How do you know the names of the cashkeeper, the Karkoon, and of the Naib of Dehee Dwarbassiny ?

A. I came to the knowledge of their names from their address on letters, and from the people of that place.

Q. By what means did you write and despatch the letter that came to the Darogah ?

A. I had an interview at the house of the said Mohesh with *Gopaul Neogy, of the village Gooee,* to whom I had handed over the letter.

On being questioned, answered :—At the time of confinement in the house of Mohesh, *I had the advantage of paper and ink in the room,* and *wrote the letter gradually.* The said Gopaul Neogy *being a frequent visitor* in the said house, I had handed him the letter through the window.

Q. What led Gopaul to take your letter when he had an intimacy with the said Mohesh ?

A. Gopaul had no real intimacy with Mohesh : the former had told me to hand over to him my letter. I had before heard a report that Joykissen Baboo would one day catch and carry me away, therefore I had petitioned the Magistrate.

On cross examination said :—How can I give any proof *that my confinement was* with the knowledge of *Joykissen Baboo,* when I was kept in the house at Ooterparrah? *Baboo Bejoykissen Mookerjee and Dewan Issurchunder Mookerjee were present in the house.* I have not seen the address of the letter given to the Karkoon of the Dehee Dwarbassiny. I was carried *away from Ooterparrah in the presence of Bejoykissen Mookerjee and Issurchunder.*

THE CROSS-QUESTIONS AND ANSWERS OF MUDDUN MOHUN DEY, 15TH JUNE, 1858.

On being questioned by the defendants' Mooktear, Muddun Dey replied :—On the day I was forcibly carried away, Juddoonauth Mozoomdar sent for me *by one Gobind Paul,* and was on my way to the Bulluttee Cutchery. Gobind Paul is Joykissen Mookerjee's ryot of Bulluttee, and not a servant of Juddoo Moozoomdar. As no question was put to me concerning the above points at the time of my deposition, I did not think it proper to say that Gobind Paul told me that Juddoo Moozomdar had sent for me.

Q. You complained against Juddoo Moozomdar; but why did you not state that Gobind Paul was sent by him to call on you, this being the principal point?

A. No one asked me *that question. Gobind is not a relation of mine: our houses stand in six and half cottahs* of land (more or less) respectively, and we pay the rents in half shares. The place where I was caught is 20 *or* 30 *biggahs* distant from my house, and seven or eight houses intervene. I was taken away very fast by three persons besides Juddoo Mozoomdar; I did not see whether anyone followed me, but I think two or three persons may have followed us. At the time they took me away there were two persons working in the garden besides *Premchund Chowkeedar, but* I could not recognize them. I heard *Premchund called out to Gorachund Gola and Ramcower Khemroo.* I managed to give information of all that happened to my family through my daughter's son, *Koylas Paul, aged* 9 *years, who was at school there.* I was carried away at first by the public road which lay in front of the school of the village, and then through gardens and fields to the other side of the Surussuttee. There are other roads to go to Ooterparah. Those three persons by whom I was dragged away through the public *road* had *clubs with* them: besides these no one followed me to Ooterparah, and I DID NOT SEE MY WIFE at the time. There *is a tank and a Brahmin's house near the place where* I *was* caught. The place is very thinly inhabitated. When I fell into their hands I bawled out, and told Premchund Chowkedar (whom I am well acquainted with, being the watchman of the Muhalea in which I live) that they were forcibly taking me away. He *caught hold of my hands. I told Koylas (as above stated) to give notice to my family.* The house of Narain Paul is at a distance of 10 or 15 rusees from the place where I was captured, and the houses of mine and Narain Paul are situated at an equal distance from the site above alluded to. My house stands on the south-eastern side of the place which is between my house and that of Narain Paul, and at a distance of half a mile in the south and east direction. There are several dwelling houses. I was arrested at the hour of 3½ *in the evening* and carried

to Ooterparah. I was confined there. The distance between Bulluttee and Ooterparah is 2 or 2½ coss. At first with all possible haste I was carried, but I was unable to move on in that way, and therefore was allowed to go slowly. We reached Ooterparah at 3 or 4 dunds of night, when I was placed under the charge of several other persons who were seated in the Deoori, the former ones having gone away. There is a ghattee consisting of Burkundazes at the *Bascoor Haut*, 50 *biggahs* off from the place *of my arrest. Of the individuals that* were in charge of my person I have heard the name of one, which is Ramdeen or Ramdyal, who, after having passed Rogonauthpore, sat down to make water, and was called out by the others of the party: thus his name reached my ear. When the police officers released me I did not give out that man's name. When I met *Premchand Chowkedar, I told* him that they were *forcibly taking* me away. I mentioned the name of Bejoy Baboo, he being the step brother of Joykissen Baboo or so. I saw Dewan Isserchunder twice or thrice in the Cutchery. I did hear the name of Bejoy Kisto *Baboo from before, but did not* see him. I did not know Sadoo Sing, Shadoo Bagdee, Chintamoney Roy, before they went with me to Dwarbassiny, and Shadoo Sing remained there. Afterwards I was placed under the charge of several other persons, amongst whom Ramtuhul Tewaree is one. Shadoo Bagdee and Chintamoney Roy were not there. I was made to go to Chinsurah in a boat, and on our arrival there at Ghunta Ghaut at 2½ ghuntas remaining of the night, when we went to Dwarbassiny through the pucca road, they (my guards) did not allow me to go towards *the Hooghly railway station*. In our way to Dwarbassiny, the Nugdees eat julpan, but no delay was made there nor at Chinsurah. At nearly two paurs noon of day we reached Dwarbassiny. I met *one or two passengers in the* road, but thinking it useless to say to them anything about me I did not speak to anybody. No police officers could be met with. *In going to Dwarbassiny* we had to cross a shallow stream, the name of which I know not; there was no other river to cross over in a boat

Being interrogated, he stated that he was 27 or 28 days at Dwarbassiny, he remained 27 days at the Cutchery of Dwarbassiny, and an equal number of days at the house of Greedharee Puttack. He said :—When I was at *Mohesh Bannerjee's house at Goaee*, there a few of the Ryots of Jaer used to go to pay their rents and for such other puposes. Here I did receive my diet money. Mohes generally used to say to me : " I am a servant of Baboo Joykissen ; if you run away he will ruin you." He used to keep me closed in a room. From this I came to know his name. One day *Mohesh, hearing that the* Baboo would be at Dwarbassiny, went to the place to wait upon him. Moonshee of Thannah Doomjoor released me from my confinement. I wrote a letter which enabled the Moonshee to obtain any clue concerning me. There were inkstands, pens, and dufters in the room where I was kept. Shadoo Sing and Ramtuhul watched me alternately. The village Goaee is in the Zemindary of Baboo *Rajkissen*. I know not whose Zemindary is village Kistopore.

Q. Are these persons here who forcibly carried you away (pointing to the prisoners) ?

A. No, they are not here ; but (pointing to *Cabul Sing, Ojoodhia, Haran, and Jutton*) I think they came out from a plaintain garden, and went through the jungle.—I think after I was taken away.

Being questioned by the Court, he stated : —" I was not acquainted with *Gopaul Neogy* before that. Previously to my being kidnapped, Juddoo Moozomdar came to an understanding for compromising the case, on condition of his (Juddoo's) returning my articles that had been plundered by him, and releasing *Juggo Paul. In order to evade giving me the looted things, I was forcibly abducted.*

Being questioned by the Court he replied :—Before this occurrence I never saw Mohesh Banerjee : now I heard his name. The distance between Bulluttee and Goaee is about 28 or 30 coss, and that between Goaee and Dwarbassiny is one coss. I never went to this part of the country during my whole life.

In answer to a question put to him by the Court, he said that Mohesh Banerjee lives in a cutcha house ; he is not a rich man, and depends upon his employment for his livelihood.

Being interrogated, replied that there are no relations nor acquaintances of his in that part of the district.

I

26TH FEBRUARY, 1858.

Witness Gopaul Paul, age about 20 or 22 years, appeared before the Court, and deposed that on one afternoon (could not name the date) about 10 or 12 days ago, Gomastah Judd'oo Moozomdar and Muddun Dey, husband of Keenee Dassee, came to the witness's house to purchase *gunny pieces. Dwarkanauth Mullick, Muddun Bhuttacharjee, and Ramdash Ghose* were with him. After seeing the Than or piece they went out. Shortly afterwards he went out of his house, and saw from a distance of 2 biggahs that three of Baboo Joykissen's men, whose names he does not know, but can identify one if he sees him, caught Muddun by the neck and hands, and carried him away *nor'hwards :* no one else was with them. He has not asked any one of them about the matter.

15TH JUNE, 1858.

Cross-Examination.

Witness Gopaul stated that there was no one present amongst *the defendants present.*

Q. How could you know that those persons who took away Muddun were Joykissen Baboo's men ?

A. They were said by all to be Joykissen Baboo's men.

Q. Did you know at the time that Muddun was being carried away that they were Baboo Joykissen Mookerjee's men ?

A. I *did not know then,* but heard afterwards that they were Baboo Joykissen's men.

Stated in answer to the question put by the Mooktear of the defendant.—I saw him being carried away through the *front of my house.* I and Muddun do not reside in the same neighbourhood. He was being carried *northward through the road,*

which road does not lead to Ooterparrah. The place where I saw them was about 2 biggahs distant from the pond of Isser Chunder Mookerjee. I did not see when he was captured, but saw him when being carried away. He was walking quietly, without making any noise.

Q. How could you know that he was carried by force?

A. *From the tears in his eyes, which plainly* told that he was being carried away. I have known Muddun for a long time. I neither conveyed any notice to the Police, nor did I attempt rescuing him. At that moment I neither saw his wife nor Prem Chund Chowkedar. *I saw nobody except Muddun and the three captors, nor was anybody seen to follow after them.* The three captors had letters in their hands, *and Juddoonath Moozomdar was not with them.* I did not give any notice to Muddun's family about his capture. Muddun is my relative. I was told on the next day that the captors of Muddun were Joykissen Baboo's men. I did not give any notice of it to the Police.

Being questioned by the Court, stated.—There are no houses near the place *where I saw him carried away.*

In answer to the question put by the Mooktear of the defendants, stated:—If there was any noise made in the place where I saw him being carried away it could have been distinctly heard; but I, being a young man, did not speak to anybody. Muddun knew me, and at the time of my seeing him he could not perceive me. *I saw from behind.*

Q. Then how could you know that he was crying, and tears were flowing from his eyes?

A. *I did not see tears coming out his eyes.*

Being questioned he stated that Muddun was not hurried away, but walking as usual.

J.

26TH FEBRUARY, 1858.

Witness Gorachand Gola, son of Ramchand, inhabitant of Bulluttee, age about 30 years, caste *Satgope*, deposed that 10 or 12 days ago at 12 o'clock, *Muddun Dey, husband* of Keenee

Dassee, and Juddoo Moozomdar were conversing with each other. Going to the northward shortly afterwards, he saw *Dyal Sing* and three *other Bengallee Nugdees* carry *Muddun Dey northward*, but where he was taken he could not tell, nor did he question them. *Juddoo Moozomdar and Ram Dyal* are servants of Joykissen Mookerjee; the rest whose men they were he could not say. On the same day when he went to the Haut, he heard there that by the orders of Juddoo Moozomdar, the property of Muddun that was in the shop was plundered by other defendants. He then returned from thence.

Being questioned by the Court, he stated that Muddun Dey is not at home, and where he is now he could not exactly tell.

15TH JUNE, 1153.

Cross-examination.

Questioned by the Court, stated that when he was manufacturing *gunny pieces in the garden of Narain Paul, he saw Muddun was carried away.* Witness Gopaul was at his house.

Being questioned by the defendants' Mooktear stated.—The distance between *Gopaul's house and Narain Paul's* garden is about 2 *russees*. I saw Muddun carried about a russee when my sight was obstructed *by ranges of* bricks. *Gopaul Paul's* house was to be seen from the place where I was standing. There were four persons besides Muddun, and *Juddoo Moozomdar* was there also when he was carried. The other *defendants present followed* afterwards. There were four others including Juddoo *besides the four Captors*. I saw Muddun when he was captured, *and no Chowkedar, not even Premchand nor anyone that came to rescue Muddun, nor anybody* who was there, *nor his wife, followed.* I was three hours there *after Muddun was captured. I did not see his wife then.* When Muddun was captured, he begged of the captors to take him easily, and he made no atempt of escaping. *Muddun was forcibly carried away. I did not carry the news to the Police or elsewhere*, nor did I attempt upon rescuing him. Where he was taken to I did not

know I was standing near Narain Paul's house, and the houses of others were at a little distance If any cries were made, they could have been distinctly heard

Questioned by the Court stated.—Ramcoomar Kamroo was joined with *me in making Than or Jute rope.* That may be done by a single person, but in making Noraj four men are required. I am by caste a *Satgope* and Muddun a *Tali.* I never spoke to anybody about the capture.

Q. If you never spoke to anybody, how could the Darogah know that you were acquainted with it?

A. Muddun's wife told it afterwards.

Said that he spoke to the Darogah when he was asked of it. Being questioned he stated that he knew nothing about Juggo Paul's being carried.

K

2ND FALGOON, 1264.

Witness *Premchund Chowkedar* deposed that he knows Keenee Dassee, and her husband Muddun Dey, who are ryots of his Mahalah or division.

Q. What do you know about the prosecutrix's case of plunder and making away with Muddun Dey?

A. In one of the Tuesdays of Maugh last, he HEARD from some men of the Bulluttee Haut that the *joint shop* of Muddun and Juggo Nundy was then *being plundered* by the Zemindar's men; having heard this, at about 10 A. M., he went home to dine, and in the evening proceeding towards Bhaskoor Ghattee, to learn the whole circumstances from the Burkundaz. Abdoolbaree Burkundaz, who was in the Ghattee at the time, came with the witness to see who the Mujcooree peon was. On hearing that the peon was in the house of Kally Gangooly, the party proceeded there, and there HEARD that Lall Mohun, Gomastah of Kristopore, having instituted proceedings under Regulation 5 of 1812, against Golluck Ghose and Kalikristo Napit, plundered paddy, rice, &c, from the joint shop of Muddun

Dey and Juggo Nundy. When returning from thence he HEARD that the gunny pieces belonging to Muddun Dey and Juggo Nundee that were deposited in Deno Paul's house had also been similarly taken away. A few days after this he heard the Gomastah, Juddoo Moozomdar, and his Pykes, instituted proceedings under Regulation 5 against one Neloo Ghose of Bhascoor, and in execution thereof carried away certain quantities of jute from Juggo Paul's house, which was purchased by Muddun Dey. One day in the end of Maugh (the date was not recollected) at about 2 P. M., he HEARD some schoolboys and travellers TALKING that Muddun DEY had been ARRESTED AND CARRIED away by the Zemindar's men. On hearing this the witness went towards the Ghattee, and *on the way* met *Jutton Mal Pyke*, Goocram, and Harran, who were going towards the north: he did not *ask them* anything. On arriving at the *Ghattee* he did not *find the Burkundaz* there, but HEARD that he had *gone to Keenee Dassee. Muddun Dey's wife lodged* the information to the Burkundaz before the witness did. The next day Burkundaz gave the witness Italah, and he carried it to the Thannah.

In answer to question, he said that Juggo Nundee's shop is situated in the Bazar, and it is Gobindo Bigdhee Chowkedar's division.

In answer to question, he stated that Juggo Nundee's house is in Madub Chowkedar's Mahalah.

Q. What was the cause of your going to the Ghatteo instead of those in whose jurisdiction the occurrence took place?

A. Because *Muldun Dey was arrested and carried* from my division.

15TH JUNE, 1858.

Cross-examination.

Questioned by the defendants' Mooktear stated.—*I was told of the capture of Muddun by the schoolboys and passengers on the road. I did not see Muddun on the* road, but heard that he had gone beyond the school-house.

Q. Are there dwelling houses near Isser Mookerjee's pond ?

A. *On the east side of the pond is Chokerbutty's house; on the west, north, and south are the dwelling houses of ryots at short distances.*

In answer to the question put by the prosecutor's Mooktear stated:—I *met* Juddoo *Moozomdar* near the pond after Muldun *was* carried, but we *did not speak to each* other. I went to the B'haskoor Ghattee by a different road. I met the Gomastah five or six times before my deposition in this case was taken.

Being questioned stated:—I receive my wages from the ryots and myself collect them. Once only the Gomastah collected for me on my petitioning him.

L.

5TH MARCH, 1858.

Witness Gobindo Chunder Paul, of Balluttee, deposed that he *knows the prosecutrix, Keenee Dassee*, and her husband Muddun Dey, but has no concern with them.

Q. What do you know about the plunder and goom case of Muddun Dey, instituted by his wife Keenee Dassee?

A. Some 17 *or* 18 *days ago*, at about 3 P. M., Juddoo Moozomdar, Gomastah, Dwarkanauth Mullic, Panchoo Paul, ryots, came to the house of Nobin Mattah to purchase gunny pieces; but those gunnies not being approved, they came to me, when I was sitting on the road before my house, and *asked where Muddun was.* I knew that Muddun's case was compromised, and *Muddun went out to search Juddoo twice that* day. From this I knew Muddun was at home, and *accordingly told Juddoo that Muddun is at his house.* I went *to call* him, on being asked by Juddoo. *Juddoo, Muddun, Dwarkanauth Mullic*, and Panchoo Paul were *going westward, conversing* with *each other*, About an hour after I heard that Muddun was carried away, and from that time I have not seen him, and where he is now I don't know. My house is about one biggah distant from that of Muddun.

Q. How do *you know that Muddun went* to search *Juddoo* twice?

A. I heard from *Juggo's mother*, when she asked Muddun about it.

Being interrogated replied:—I did not know what case Muddun had before.

Q. Then what compromises did you hear were made?

A. I heard that the case was for some money matters.

Replied on being questioned.—I saw Muddun went towards the Cutchery.

15TH JUNE, 1858.

Cross-examination.

In answer to the question put by the defendants' Mooktear stated:—I went to my shop after sending Muddun from his house. The *distance between mine and Muddun's house is a biggah.* My shop is about a mile eastward from Muddun's house. On the afternoon of that very day I heard that Muddun was carried away northward by the road, but where he was taken I was not informed. By *whom Muddun was captured I was not told.* Muddun is a relation of mine, that is my father's friend; this is the only relationship existing.

Questioned by the Court stated:—When I went to call Muddun he was speaking with the mother of Juggo Paul, and his wife was not present. She was inside a room.

In answer to the prosecutrix's Mooktear stated:—Muddun and I dwell within the same compound.

M

18TH JUNE, 1858.

Witness *Doorgachurn Mookerjee, Head Master Bulluttee school,* deposed:—About two years, I am engaged as a Head Master in that institution. I am lodging there for that purpose.

Q What do you know about the goom case of Muddun, instituted by his wife Keenee Dassee ?

A. About two months ago (the month and date of the day I do not recollect) *when I* was *teaching my boys in the* school, I saw at about 2 P M. three persons accompanied by *Muddun were going* towards Kistopore, through *the road which is* 20 or 22 hands distant eastward of the school. I did not *ask anything of anybody*, and for what *reason he was taken* I did not enquire. Among those three persons I *saw one* held *Muddun's wearing cloth, and of the two* others, *going* one by his side *and the* other after him ; but I did *not know* them. Perhaps one of them came to the school some days before that day. I can identify him if I see him, but don't think that I can identify others. I do not consider them gentlemen in appearance. I *did not* hear any *word from Muddun* as far as I could see him. I *knew Muddun before* this *occurrence.*

Being questioned, stated :—The pond of Issur Chunder Mookerjee is 10 or 12 russees distant from that place, and it is not visible from thence. *Many of the school boys have seen him taken away.*

Interrogated by the Court stated :—Those men appeared to be Bengally Nugdees, and they *had each of them clubs* in their *hands.* I *have not* seen Juddoo Moozomdar to accompany them. I heard of Muddun's capture when the *Darogah* was *deputed to investigate the matter.*

Questioned by the Court stated —*The* person *who brought the* letter to the school came from Ooterparrah.

Q Do you know him exactly ?

A I said as I recollected.

Q From whom came this letter from Ooterparrah ?

A From *the Secretary to the* school, *Bejoykissen Mookerjee*, step-brother of Joykissen Mookerjea.

Questioned by the Court stated, that a quarter of an hour after Muddun was carried away by two or three Pykes of Bulluttee Cutchery ; was going evidently for some business

ORDERED.

That witnesses present be dismissed on Muchulkas amounting to 100 Rupees each, on condition to reappear on Wednesday next, dated 18th June, 1858.

7TH JULY, 1858.

Cross-Examination of Doorgachurn Mookerjee, Head Master.

Questioned by the defendant's Moktear stated :—Muddun and three others were before my eyes for three or four minutes only. After that I could not see them any more. I saw Muddun was carried about 200 hands from the school-house. I was inside the school. The *road is close to the school compound, and is not more than* 22½ *hands or* 150 *yards distant from the school.* I could see Muddun only for a short time, because I saw him from inside the school-house. If any one were to see from outside the school, it is possible he could see for a long time. People who see from outside can extend their sight to about 50 yards. I saw as far as was visible. I have said before that some men went on the road afterwards; it must have been ½ of an hour after. I saw *Muddun to go,* followed by three or four Pykes ; if *any one would have gone in the mean time* I would have *seen them.* I have not seen any woman in the road near the school. At what *time he left the* school *that day I cannot say.* The *school closes* at 4 P. M. Of all the captors of Muddun, one was in the school once, but not more, He was come from Baboo Bejoykissen Mookerjee with letters or papers. I often *send letters to the Baboo.* The letters I receive from the Baboo are generally sent by his servants. I cannot say whether they were letter bearers or only servants for doing miscellaneous work. Two or *three of the* Baboo's servants generally used to bring letters to the *school.* I send letters by the school servants through whom replies have been received. I *think him to be Baboo Bejoykissen's servant for his bringing a letter from him,* and for no other reason.

Q. Do you see among the defendants present any of the Baboo's letter bearers of whom you spoke before ?

A. (After looking at the defendants, stated) :—*He is not among* them.

Being questioned answered :—The Darogah might have heard from Koylas, the grandson of the prosecutrix, that I can give depositions in this case. *I suppose Koylas was in the school when Muddun was seen being carried away. I don't remember that Muddun had any talk with Koylas*, nor did I see *Koylas* at that time. I heard of Koylas being present from the Pundit. *I neither saw Koylas in the school, nor saw him leave it at the time.* It is a practice with the boys when they go home during the school hour, to ask leave of their master, but when the school closes, there is no necessity for boys to obtain permission of masters to go home. I saw Muddun was carried away at about 2 P. M. The school was closed more than an hour after Muddun was carried away. I know Juddoo Moozomdar from before, and he was not one among the followers.

Q. Among the defendants present was any one with the followers of Muddun ?

A. *Pointing to the defendants Keybul Sing and Harran*, stated that they were *with them* but cannot say whether the others *were* with them or not. Further stated :—I recognize *Keybul Sing and Harran* Bagdee to be Nugdees of Bulluttee *Cutchery*. They followed the captured man. Those that *carried Muldun away are not present here.*

Question by the Court.—Does it seem probable that those who carried Muddun away, and who followed them, were engaged in one object ?

A. Those who followed were Nugdees, and those carried away looked like Nugdees. Both parties appear to have been employed in the same object. I have not seen Koylas the grandson in the school after Muddun was carried. I do not know whether he is readmitted now or not.

Questioned by the plaintiff's Mooktear stated : —How can I say what number of males and females pass the road ? *I do not recollect having seen any woman on the road at that time*, but don't know for certainty whether there was any woman or not.

Being questioned, said : —The enclosure around the school compound is of *baccaries*, and the *bara* around the school house is made of durmah with japhrees on the centre of them. I was looking on the east when Muddun was carried away. If anyone was standing at the school-house door at that time, he could be seen. Any one remaining on any side cannot be seen. I have a good recollection that I have not seen Juddoo Moozomdar when Muddun was carried, or when the Nugdees followed after. How can I say who passed the road after Muddun was taken away? I saw from the school door that Muddun was carried away. My lodging is close to the school. I did not go to the interior of the village, and did not hear any rumour.

N

18TH JUNE, 1858.

Deposition of Bacharam Chatterjee, witness, inhabitant of Beila, and Head Pundit of the Bullutee School.—I am employed as Head Pundit of the A. V. School at Bullutee.

Q. Do you know anything about the forcible abduction of Muddun Dey, the husband of Keenee Dassee, the prosecutrix ?

I do not recollect the month or date ; but I think it is three or four *months past, at* about 2 P. M., when I was instructing the boys, that I saw three or four persons were taking away Muddun towards Aklokee by the *road in front of the school-house*. I was in the *school-room*, and at a distance of *thirty or fifty hands thence* I perceived that one *of the three* persons held *the fore part of Muddun's dhootee*, while the others followed him. At that time *I did not hear Muddun or anyone else to make any noise or*

speak a word whatever. I did not know these persons, but I think I can recognize one or two of them if I see them. Formerly my lodging was near Muddun Dey's house. *I know him. When Muddun Dey was carried away, I did not put any question to him, and he also passed silently away, therefore I was unable to know where and for what reasons he was going; but since the Darogah came I hear by rumour that Muddun was carried away by Baboo Joykissen Mookerjee's men.*

Being interrogated by the Court, replied.—Muddun was being taken away from towards the south, where there is, in the interior of the village, a pond belonging to Isser Chunder Mookerjee, and at a distance of twenty or thirty biggahs south of the school. I think these persons were dressed like people of this country. One of them appeared tall and black. I may have seen one or two of them walking on the road, and in consequence I did not remember their faces. I may have seen them either at Bulluttee or somewhere else, and *I think I can recognize one or two of them.* No one followed Muddun at the time of his being carried away; but a quarter of an hour after, two or three of the *Cutchery men were seen going that way. Of the three* persons Harran and Gunram were two, while I do not recollect the name of the third. They were *going rather fast*, and I think they *followed either Muddun or for some other business.* Many of the boys of the school saw Muddun taken away. Why *these boys*, after being repeatedly summoned, have not appeared before the Court, I do not know. Some of them, to avoid coming to Howrah, have written letters *absenting themselves from the school*, stating that they are sick; letters have been received from some of them, but not all.

7TH JULY, 1858.

Cross-examination of Bacharam Chatterjee, Pundit.

Questioned by the defendant's Mooktear stated.—*I knew Juldoonath Moozomdar* very well before Muddun was carried away. Lots of females crossed and recrossed the road after

Muddun's capture, but *there was not a known woman among them.* I recollect the name of a boy (Koylas) being a student in the Patshalla. *I think Koylas was present in the school at the time Muddun was carried away.* How long did he continue I can not say. *I have not seen him going out, neither did he ask my permission for doing so.* I have not seen *Muddun to enter into any conversation with him.*

Questioned by the Court stated.—None of the captors of Muddun are present here (but, seeing *Keybul and Harran, said that these followed them*; *and seeing Jotun said*: perhaps I have not seen him at that time). I did not see Juddoonath Moozomdar either. I saw through the japrees or bamboo work of the Bengally school, Muddun being carried away. *Koylas is the grandson of Muddun.* He was turned out of the *school after Muddun's capture for non-payment regularly of his schooling fees.* This rule is enforced for turning out all boys for *non-payment of schooling fees.*

Being questioned stated.—I do not know Muddun's wife, Keenee Dassee, from before, nor have I seen any woman to run after Muddun.

Questioned by the plaintiff's Mooktear stated—Any one passing the road where Muddun was carried from, can be seen *from the spot* where I was sitting; but no one can see so much if otherwise engaged at that time. I saw through the japrees of the east side. From the same place 8 or 10 cuttahs of the road can be seen. Besides, gardens and dwelling houses lying on the east can be seen.

18TH JUNE, 1859.

Witness Kartick Chunder Sircar, third Pundit of Bulluttee school, deposed—About 2 years I am engaged as Pundit in the Bengali Patshalah of Bullutee.

Q. What do you know about the goom case of Muddun by his wife, Keenee Dassee prosecutrix?

A. *About* 5 *or* 6 *months ago* (the date and month I do not recollect) when I was *teaching the boys* in the Patshalah, at about 2 P. M., I saw two or three *persons accompanied by Muddun* were going northward, Kristopore side, through the *road* in which I was. *I do not know the persons* in company with Muddun, and I don't think I can identify them, and whose men they were I know not, and neither did I ask any word to any of them. The above mentioned three persons were going *close to Muddun; perhaps* one of them was holding Muddun's wearing cloth. I did not hear Muddun making any noise or row whilst going. Where, and for what reason, they were going, I do not know. I know Muddun from before. I *now hear* from rumour and in consequence of a case being instituted, that Muddun was carried by Baboo Joy Kissen Mookerjea's men.

Interrogated by the Court, stated:—The persons mentioned looked like low people, something like Nugdees, and each of them *had lattees in their hands*, but whether they were Nugdees or not I do not know. *No one followed them at the time. I saw a long time after, say an hour or so after, Joykissen Mookerjea's men passed by the way.*

7TH JULY, 1858.

Cross-examination of Kartic Chunder Sircar.

Questioned by the prosecutor's Mooktear stated:—*I am the third Pundit of the Bulluttee school.* The room in which I teach my students has doors on the east and south. There is a road on the east of the room, the *distance of which from the room is about* 4 *or* 5 *cuttahs. The road can be seen from being seated at the door of the room. I have not seen Juddoo Moozomdar when Muddun was carried away.* How can I say what number of men passed that road on that day?

Questioned by the Defendant's Mooktear stated.—*There was a boy by name Koylas Paul,* but whether he was present at the time when Muddun was carried away I cannot say. I do not recollect whether he was in or out of the school, at the time, nor

did he take leave from me to go out. I know Muddun's wife from before, but I did not see her on that day near the school.

Questioned by the Court, stated :—*Koylas the boy does not attend the school now; why he discontinued I know not.* The Pundit did not strike off his name, but *he has left of his own* accord.

P

THE 26TH MAY, 1858, OR 14TH JOISTY, 1265.

Deposition on Oath of Bycuntnath Bose, Mohorir of Thannah Doomjoor.

In the case of Keenee Dassee, and of the unlawful detention of her husband Muddun Dey, *I was ordered to make search for his person. Being* accompanied by the Burkundazes, *Ramchand, Mehur Khan, and Gopaul,* I went yesterday at the close of the day to the village named Goayee in Zillah Hooghly, Thannah Dhunakhally, when, *under disguise,* I went to the house of the Gomastah of *Baboo Joykissen Mookerjea, named Mohesh Banerjea.* In this house, I saw two durwans named Shadoo and Ramtohal Sing, who seemed a little agitated on my approach. This led me to believe that the said Muddun was kept in that house. I then expressed my wish to remain there for the night, but the said Nugdees refused on pretence of the absence of the owner of the house. I then came out of the house and went to the house of one Hurres Brahmin, from which I sent letters for assistance from the Thannah of Dhunakhally; but being informed that Chote Mohes Banerjee was attempting to remove the prisoner in the night, I was obliged to have the house well guarded by my Burkundazes, the Burkundaze of Hawoor coming to my assistance at the same time. At about 12 in the night, I was informed by *Gopaul Neogy,* and Burra Mohesh Banerjea, that about 50 or 60 durwans had been sent from *Baboo Joykissen Mookerjea's,* Dehee of Dwarbassiny, with instructions to forcibly remove

the prisoner, and drive the police away. This report being corroborated by the Chowkedars. and especially the Burkundaze of Hawoor, who pointed to the hopelessness of my resistance to the orders of the Zemindar, I then ordered him to call the ryots to come to my aid; but after all the efforts to that end none of the villagers appeared. The Burkundaz of Hawoor seemed inclined on the Zemindar's side; I therefore depended for our safety upon Gopaul and other ryots present. Then Gopaul Neogy *agreed to bring out* the prisoner, which he did accordingly, I brought away the prisoner at night, and presented him to the Court this day. The prisoner said, when he replied to my call from the house, that the guards kept over him were ready to cut him, and that he was confined in a room that was locked up.

On cross-examination said:—On my going to the *Chundee-mundul*, an outer house, the said Mehar only had followed me as far as the door, clothed in the Mussulman's fashion; two other Burkundazes in a dirty dress remained outside. The said Mehar is a very stout man. The said durwans were affected only from suspicion. I remained for about 15 or 20 minutes in the house. I then went to the house of two or three other Brahmins, but none of them allowed us a lodging, from fear of robbery formerly committed in the disguise of a son-in-law. At last I remained in the house of a Hurris Brahmin at a distance of 12 or 13 Beegahs About an hour after that I wrote letters for the Thannah of Dhunakhally, and sent the same by the peon named Gopal. After that at about 1 or 2 in the night, the Burkundaz of Hawoor came to my assistance.

Q. How were you employed in the time between the arrival of the Burkundaz of Hawoor and your receiving information at 12 o'clock from Mohesh?

A. In guarding the house.

Q. What prevented the Zemindar's men to remove the prisoner, as they gave out?

A. They were prevented by *Ramchand and Joynarain* passing on the road

23RD JUNE, 1858.

Witness.—Bycunt Nauth Bose, Mohurir, Cross examination.

Questioned by the Mooktear on the part *of the defendants*, replied :—*I was ordered by the Darogah to search* out Muddun. *By a letter received it was known that Muddun* was at Goayee. That letter was handed *over to the Darogah by Joy Narain Haldar*, who stated that the letter was sent to him by a person whose name I have heard being mentioned to the Darogah. I was not then present there. I was dressed in a dirty cloth, and wrapt in a napkin or gumcha, and an umbrella in hand, when deputed to find out Muddun. I have never been to Goayee. or *that part of the country, nor have I any* relation *there* who would there know me. I was accompanied by *Ramchund, Gopaul, Meheer Khan Burkundaz, and Joy Narain Haldar, besides a boy* servant of mine named Lukee Narain Napit. I am not aware whether Joy Narain Haldar gave any Izahar before the Darogah or not, for I was not there. The same Joy Narain who gave the letter to the Darogah accompanied me. About 2 or 3 o'clock A. M. *on the 23rd May we* started for Goayee, and arrived at a mangoe garden outside the village Goayee on *the 25th afternoon*,5 or 6 *dundoes* before the close of evening. On our setting out we passed through the *Ghattee Bhaseoor, Thannah Chundeetollah, and the Ghattee at Malpura Bazar of Hooghly*, and took assistance from *Ghattee at Goyaee*. There is no Ghattee at Mragallah, neither was any Ghattee seen at Paoonon, and I don't know if there is any Ghattee there. I have not been at Datraw, and do not know whether there is any Ghattee. I have not seen Dwarbassiny Ghattee. On arriving at the mangoe garden, I thought *within myself, that I shall go on with my enquiries, keeping myself at somebody's house with some pretext, and with that view disguised Ram Chund Burkundaz* as a sick person, and entered the village. *We met a house with open doors.* There were two durwans on the chundeemundub, one sitting and the other lying down. There was in this chundeemundub *a screen, colored blue, which* was hung up between the two middle posts. We met a boy *in the same place, whom* being asked, said that the house before us is the

house of *Choto Mohesh, Gomastah of Baboo Joykissen Mookerjee.* This led us *to think that Muddun was kept there.* Accordingly I peeped and asked the durwans if they would allow us to remain there; but they said that as the owner of the house was not at home they cannot allow us to live there. We came out on hearing this. Besides *the two durwans* we did not see any one else. There *was no female seen at the outer* house. When I *entered Mohesh's house, Mehur Burkundaz* was alone *with me.* The others were on the outside. Joynarain was taken with us, because he handed over the letter to the Darogah, and told us that he knows the village. Two Chowkedars, one named *Tincowry and the other's name I do not* recollect, and *the Ghattee Burkundaz of Hawoor, assisted* me. There were several ryots come to me, amongst whom were *Boro Mohesh and Gopaul Neogy.* When Muddun was brought out Boro Mohesh Banerjee, Gopaul Neogy, Burkundaz of Hawoor, three Burkundazes who accompanied us, and myself were present. I lodged there at a Haree Brahmin's house, which is 10 *or* 15 *rusees* distant from Chotow Mohesh's house. When I was *seated myself in a shop after* having come out of Choto *Mohesh's house,* one of the Nuggdees came out and called *Nofar,* an inhabitant of the place, and talked privately and then went away. Shortly after, the same Nofar came to me and blamed Joykissen Mookerjee. I took all his words as false.

Being questioned.—The old shopkeeper of *Goayee told me that he saw an old Teli of Bulluttee in the house of the said Mohesh, and supplied him with moree tiffin every day. A Mondol's son being brought by Ram Chand Burkundaz,* declared on asking, that he saw Muddun in the same evening in the house of Mohesh. *Ram Chand Burkundaz* was placed by me as a guard on the road. Being in a different jurisdiction I could not venture upon bringing out the missing person with my three Burkundazes. *The Mondol's boy told me that one of the Nugdees was gone to Dwarbassiny.* I was told the *Moodee's and the boy's name* but do not remember them. At 10 or 11 P. M. *I myself and 2 Burkundazes, one* Chowkeedar, surrounded the house of

Choto Mohesh, before the arrival of Ghattee Burkundaz of Hawoor. I did not enter the house. *Gopaul Neogy brought Muddun out and delivered him up to me*, when I was standing at the back door. *Gopaul told me that Muddun was under close confinement;* but I did not *enquire whether he was locked up or kept closed.* On my desiring Gopaul he entered the house. Before Gopaul went to get out Muddun he had a talk with me. *When I heard that many of Joykissen Mookerjea's men were coming, Boro Mohesh and Gopaul Neogy* said that we would be killed, so they had better let the Gomee out: I also agreed to it. Gopaul then went in and *brought Muddun out. When Gopaul entered the house, Mohesh was there, and a woman opened the door.* I did not see *anybody else. When Muddun was being taken out nobody opposed it.* When Gopaul entered, Muddun cried out, saying *that he was about to be carried away.* I then replied that there were guards on the outside; you can be taken out. I could not see his appearance as it was dark. Next day I presented him to the Court. I did not ask *Muddun anything.* I was afraid Muddun would be *wrested from me; in consequence we walked fastly.* Gopaul Neogy did not tell me that he saw Muddun. When Muddun was bawling out, Boroo Mohesh spoke to me of Muddun's being inside the house.

In answer to question stated.—It was my duty also to apprehend *the Nugdees*; *but I feared* that the missing might be lost by attempting to arrest them. There was only one *durwan in the house at the time when Muddun was brought away*, and it being night no search of house was made, nor any attempts were set on foot to arrest the Nugdees, from fear lest being there Muddun be again carried forcibly.

Being questioned, said—One of *the durwans went to Dwarbassiny* before the house was surrounded. At the time Joy Narrain and one Burkundaz were placed on the road, in order that the missing person may not be surreptitiously carried away. *Mehar was the only strong man with me. Mehar was dressed in loongee*, and Ram Chand was taken in the disguise of a sick man.

No question on the defendants' side.

In answer to question put by the plaintiff's Mooktear stated—The shop where I was sitting is *about four or five russees* distant from the house of Choto Mohesh's house.

Being questioned by the Court stated.—I do not know the reason of the Darogah's deputing me to go, and not going himself about it.

Q

16TH JUNE, 1858.

Deposition of Darogah Prosunno Ghose.—In reference to the case of the plaintiff Keenee Dassee's missing husband, Muddun Dey, I was required to enquire whether Chutto Mohesh Bannerjee was a Gomastah in the village of Jaire, of the defendant Joykissen Mookerjee Zemindar. Accordingly on the afternoon of the 12*th Instant I applied to you to write to the Magistrate of Hooghly to procure me a Purwana*, and taking the letter, I, with the Burkundazes Mahar Khan, Madub Roy, Jan Mamud, *and Ramchund Roy, as well as with the missing Muddun Dey, went to Hooghly by the evening train, met the Magistrate in his* house, and gave him the letter, and after conferring with him on various topics framed a Purwana myself by his order, and as the night was advanced went to the Thannah of the place with the Purwana, and passed the night there. The next day I was somewhat ill; it was therefore not possible for me to travel on foot, for which reason I had to wait for the bearers till 2 or 3 P. M., when I sallied with my men for Pandooah, on reaching which place I lay concealed with the persons beside a road, and then secretly went alone to the Pandooah Thannah, and finding, by a short conversation, the Darogah of the place to be *an honest man, hinted him about the matter.* We then walked to where my palkee lay, and the Darogah said that I might as well reside in the Thannah in the guise of one of his friends, and send the men into the adjoining *Suraee station. I and*

Muddun Dey therefore resided in the Thannah for the night. At 4 A. M., with the knowledge of the Darogah, taking the men with me, I set out and reached the northern field of Jair Allaissen in the morning. *One of my Burkundazes* there informed me that on asking *a Mussulman the name of the* village, and that of the Gomastah of the place, he replied that the village is called *Jair, and that Mohesh Chunder Bannerjee is the Gomastah* of the place. On this I called for the Mussulman, and to my enquiries he said that his name was *Golam Sakh* : he also made the same statements he made to the Burkundaz. By this time a ryot named *Mousoor*, who is present in the Court, was going to his business by the road ; on calling him and questioning him about the matter, he also said that the village was called Jair, that the name of the Gomastah *was Mohesh Chunder Bannerjee of Goayee.* I kept these two persons under *my custody, and was waiting for the Darogoh of Pandooah*, when I heard a noise that the Darogah is come, and also found the Chowkedar busy on the same account. *Deeming the noise to be injurious to investigation*, I sent for the Darogah, first by a Chowkedar, and then by my Burkundaz, Mahar Khan ; but in consequence of delay, I went on foot hastily myself, and on coming up to the Darogah, who was surrounded by some men, he asked where I was, and told me that *he had collected together the ryots of the place, who all maintain that Mohesh Chunder Bannerjee is the Gomastah of Jair. I said,* if so, they will be able to produce documents for the payment of rent signed by him. *Accordingly each of my men, as well as those of the* Darogah, went respectively with each of 10 or 12 ryots, who soon after returned with bags or boxes in their hands, from which they produced their documents of the year 1263 *and* 1264, out of which 27 have been kept, and others returned as not being necessary. At this time a person came in a palkee to the spot of investigation with some men ; the people called him the Karcoon of Dwarbasinny. *I told him to keep at a distance, which he accordingly did, and then appointed some Burkundazes that his presence in the village might not in any way affect the investigation.* After our investigation was over, I selected from

the ryots *Nobo Kat, Gobindo Ghose, Aynadeen Mullick and the Mussulman Mousoor, for bringing to your Court.* On our way to Pandooah *Muddun Dey* pointed to one *Mudhoe Chowkeydar, who he said* knew everything about his being concealed in the house of *Mohesh Bannerjee.* On questioning him he said that he saw Muddun Dey to have been concealed in the said house under the watch of two durwans, one of whom was blind of one eye, and they were said to remain in the Cutchery house of Dwarbasinny. We reached Pandooah after taking the deposition of the Chowkeydar. The documents and the investigation papers were at my request signed *by the Darogah of Pandooah at the* place of the investigation. I then started by the train with the men and papers which have been produced to your Court. The remaining facts I do not recollect; they will be known from the report. Any questions that will be put to me I will answer to the best of my recollection. *I was for a few hours at night in the village,* and was engaged in writing and making enquiries, therefore the names of the directions I have given cannot be fully relied upon. I have recorded what I have learnt from the second and third persons, and from the papers. In answer to your question I reply that the ryots did not get any previous information of my going to the place, and the documents were regularly taken. In answer to the second question I reply that those documents that are brought to your Court are the only documents I have.

21ST JULY, 1858.

Cross-examination of Prosono Coomar Ghose, Darogah Thannah Doomjoor.

Questioned by the defendant's Mooktear stated.—I know Joy Narain Haldar, and when he delivered Muddun's letter Khetter Mohun Roy, overseer, was present. At that time, the Mohurir was engaged in writing on the Cutchery side, but whether he was positively there I do not recollect. Joy Narain Haldar on delivering the letter, told me that the place where Muddun is confined is stated in the letter; but what further particulars he spoke to me about the letter at that time I do not remember,

particularly as it is a long time since, and I do not recollect exactly how shall I state on oath. I at first enquired into the matter, and it was my conviction that the abduction of Muddun was made by the Baboo. On receiving that letter, I forwarded it with my English letter to the Magistrate. My Thannah Mohurir is a confidential man, and is well spoken of as a man of business. I deputed the Mohurir to go under disguise simply from the fear lest I might be discovered by going myself, and I instructed him to proceed cautiously. Muddun being released was at once brought to the Haujoor by the Mohurir. I saw Muddun two or three days after he appeared and gave his deposition before the Court. Either I saw him in this Cutchery or in the Thannah. Muddun occasionally comes to the Thannah. How many times he came to the Thannah in a month I cannot say. He used to come to the Thannah to inform me of the oppressions of the Zemindar towards the witnesses in connection with this case. I did not put down in the Rosenamcha or diary of the five or six visits paid by Muddun and the information given by him.

Q. Did Muddun go to you to ask your advice in this case, or to speak of new matters ?

A. I am a preserver of peace, and the people generally resort to me, so Muddun must have gone to me for something necessary.

Being questioned, stated :—Muddun did not come to make any complaint, and I do not remember whether he gave me the names of any of his witnesses or not. I did not keep any of the witnesses in confinement, upon Muddun's or anybody's desire. I did not confine Madob Banerjee, Kadar Dey, Gooroodoss Dey, and Sreemont Bhandaree. I only recollect having sent for Sreemont Bhandaree, and no one else. I might have sent for him for enquiring into the matter, and I took his depositions in the Thannah in the case of Juggo Paul. In Juggo Paul's case, I took the depositions of some of the witnesses and the prosecutrix in the Thannah, on account of press of business, and then went to the Mofussil for local enquiry. I did not keep any witness under custody for a whole day. I do not recollect whether Muddun came to the Thannah on the day Sreemont Bhandaree

was brought to me. I called for those witnesses whose names were given in the Izahar of Juggo Paul's mother, and others who were neighbours and shop-keepers. Whether I sent for Chunder Mullick and Kally Churn Ghose or not I do not recollect. I sent for many, and when I did so I gave *Hookum-namah* to the Burkundazes. Sometimes they make returns, and sometimes they report verbally. When any particular orders are given they are inserted in the Rosenamcha. In a case where many *Hookum-namahs* are issued, they are not inserted.

Q. Did you put down the names of those you sent for in the Rosenamcha ?

A. I do not recollect whether the names were put down or not. Written orders are given in particular cases, and then it is a practice to insert them in the Rosenamcha, and when returns are made for summoning witnesses they are forwarded to the Haujoor with my report, and the written orders that are not returned remain with the Burkundazes, *i. e.*, the orders that are not returned remain with the Burkundazes. I never went to *Jair* before. The Mohurir went to *Goayee*, and he told me of Choto Mohesh's being the Gomastah of Baboo Joykissen Mookerjee. At what day and at what hour he told me of it I don't recollect. I had a long conversation with Muddun when Russick Darogah and myself were sitting at Pandooah Thannah. What particular conversation I had I don't distinctly remember, but so far as I know they were concerning the case. When I and Pandooah Darogah were present at the place of enquiry, Muddun told us on Muddoo Chowkedar's coming there that this Chowkedar saw him confined at Choto Mohesh's house, and he being questioned admitted it. I do not recollect whether Muddun told me the name of any Chowkedar before or not. I took the *Istufsar* of the Chowkedar sitting in the Pandooah Thannah, which was forwarded with other papers. I have not sent him to the Haujoor because he afterwards denied at the Thannah having seen Muddun in confinement. The same Muddoo told me that Choto Mohesh is Baboo Joykissen's Gomastah, which I have mentioned in my report.

Being questioned stated:—After closing the enquiries at Jair, I and the Pandooah Darogah together brought four witnesses with us. I had taken the deposition of other witnesses; but more witnesses not being required I brought four only whom the Pandooah Darogah recommended. It is not necessary to bring all the witnesses. Such of them are only sent by whom the case can be proved. Those that deny everything it is useless to send; but witnesses of defendants are sent in. I never went into the village Jair before. The Darogah of Pandooah and myself went together to Jair. He was on his horse and I in my palankin, whither, at the same time with me or a little before, the Pandooah Darogah arrived there. We went by different ways. I, being misled in the way, took a Chowkedar of another village with me to show me the road. I spoke to the Magistrate of Hooghly and the Pandooah Darogah about my mission when I went there. I did not go to the *Mal* Cutcherry of Jair. The Chowkedar whom I took in the road to show the way was with me all the time.

Being questioned stated.—I went alone and took nobody from the Pandooah Thannah, because I thought I should know the village by asking some one. Muddun went with me. He went with the Burkundazes afterwards, but was present at the time of investigation. The receipts I returned were of previous years. The receipts produced by the ryots with the Gomastah's signature on them, and they being quite unaware of my going to enquire into the matter, convinced me that these are real receipts. I and the Pandooah Darogah picked out the receipts. Before my arrival the Darogah of Pandooah had collected the ryots, and on my asking two persons whom I met on the way, they told me about Mohesh's being a Gomastah in the village, for which I took them with me. I did not send for the Mundol or head man of the village. The people assembled by the Pandooah Darogah were the head men of the place. There was one among them who can read and write. He signed his name, and if anyone knew to write he would have signed his name also. I can tell by seeing their signature, and those

ryots who alleged that their receipts are kept in the house of *Kurs* of *Muhanad* are mentioned in the Sooruthal. When the depositions of the ryots of Jair were taken down I was not present, and those witnesses under your orders were kept in charge of the Nazeer.

Being questioned stated.—Whether Rajkissore Mookerjee came to my Thannah or not I do not know, and I do not recollect Rajkissore's name. Many gentlemen came to my Thannah.

Q. Did you say to anyone that you were quite assured that Joykissen Mookerjee is a wicked man, and I have done him this time ?

A. I do not want to answer such questions, nor is it the intention of the Magistrate to put such questions. You can put questions whether I have been trying to punish or ruin him.

Q. Did you disclose to anybody your intentions of punishing and ruining Joykissen Baboo ?

A. I did not say such a thing.

Q. Did you tell anyone that if Joykissen Baboo be punished, the village Bulluttee will become *Khas ?*

A. This is a question that does not relate to the case : whether I said so or not I do not recollect.

Being questioned replied.—To bring Bhyrub Bhaudaree I wrote to the Darogah of Khedarpore by a Burkundaz. I do not know whether Muddun has been there or not. Juggo Paul's mother stated of Bhyrubs's living at Khedarpore, and many others told me that Bhyrub has fled to Khedarpore, and I, this day, under your order, went to Khedarpore and brought him here.

Being questioned replied.—I recollect that some witnesses were sent under Muchulkas, and some under the charge of Burkundazes. I did not go to Muddun's house after his release.

R

English Abstract of Defence submitted by Joykissen Mookerjea, in the case of Keenee Dassee.

Before entering upon my defence, I beg to call the attention of the Court to the relative position of the nominal Plaintiff, or rather the real Plaintiff, her husband, and myself. I am a Zemindar, and he is one of my ryots. It is not unknown to the Court that whenever a Zemindar shews a disposition to enquire into the alleged rent-free holding and Tawfeer or excess juma lands of a village, the ryots forthwith begin to discontinue the regular payment of their rents. The Zemindar is then driven to the summary process of Huftum and Punjum for the recovery of rent in arrear, and the ryots ordinarily respond by forming conspiracies among themselves to bring the Zemindar and his men into trouble, by preferring against the Amlah all sorts of charges of plunder, arson, kidnapping, and sometimes murder. Upon these charges some of the ryots appear as prosecutors, and their confederates act as witnesses.

The present is an intance of this kind, with this addition;—that the ryots of Bulluttee, which village I purchased 8 or 9 years ago, were assisted and aided by a powerful neighbouring Zemindar, with whom I am at feud for a boundary-dispute for a long time. It is impossible to offer a complete and satisfactory evidence to the extent of aid given by such a neighbour; but I have offered such evidence as I have been able to procure, and which I trust will satisfy the Court as to some aid having been given to get up this false case. After measuring the lands I was proceeding to enquire into the alleged rent-free tenures and Tawfeer lands, and was met as usual by refusal and neglect to pay rent My Gomastah had recourse to the Punjum process, and in due course the village clique conspired to prefer false charges to annoy and intimidate my Amlah. The particular accusation chosen for adoption was that Muddun Dey, the Plaintiff's husband, having failed to pay a Chout or per centage on the sale of his house, my Gomastah of Bullut-

tee, Juddoonath Moozomdar, had, in order to punish him, under two processes of distraint on the 18th and 28th days of January, 1858, against Kallikristo Napit and Juggo Paul, plundered gunny bags, &c., from the shop and house of Muddun Dey and Juggo Paul. Now it is to be remarked that though the said property was sold by auction after going through the usual process by the Forus Ameen, yet neither Muddun Dey, nor his wife, nor any other party, took the obvious course of preferring an objection or claim under Act 10 of 1846, before the Collector of Revenue, the legitimate authority in such cases; but Muddun Dey, neglecting the remedy provided by law for his grievances, if real, preferred a criminal charge before the Magistrate of Howrah on the 22nd day of January, 1858, against the said Juddoonath Moozomdar and certain Nugdees, alleging that they had plundered his shop, &c. The Magistrate took no harsh or hasty measure against the Gomastah and others, but merely ordered the Darogah of Doomjoor to enquire whether the property said to have been plundered had been taken under the distraint law or not. Notwithstanding this, and the probability, amounting almost to certainty, that the charge preferred to the Criminal Court must break down, the Plaintiff would have it believed that the Gomastah was so much frightened by the application of Muddun Dey that he saw no other way of escaping from its consequences but to abduct the person of Muddun, and keep him in confinement for three or four months, at different places; and that I, his master, notwithstanding the certainty of eventual detection and the disastrous consequences which must thereupon ensue to a man in my position, was fool enough to come into the Gomastah's scheme, and lend my aid in detaining Muddun Dey in unlawful custody. Such conduct would be hardly credible, if imputed to the most inexperienced Zemindars, residing in some lawless district, and unacquainted as well with the laws of the land as with the character of the officers to whom their administration is entrusted. How much more so, when the charge is preferred against me, whose familiar acquaintance with the law current

in the Mofussil is known to public authorities, and who could judge as well as any man living both of the probability that Muddun Dey's charge would break down, and of the risk run by the insane expedient of subjecting him to unlawful imprisonment, and that in a district lying almost at the door of the Nizamut Court, and at the foot of the seat of the Supreme Government; and who, moreover, have always shown a wish to cultivate the good opinion of the Mofussil authorities and English society, and was well aware with what unsparing vengeance the crime imputed to me would be pursued by the one, and the abhorrence with which it would be viewed by the other.

The prima facie improbability of the Plaintiff's story would be rendered still more apparent, were the fact to be believed to which she herself deposes (see her deposition of the 24th of February, confirmed by her subsequent examination), that matters had been actually compromised between the Gomastah and Muddun Dey, but a short time before his alleged capture and confinement (which would have been rendered by such compromise wholly objectless) took place.

I submit to the Court that the whole probability of the case points to the fact that Muddun Dey, having attended the Magistrate's Court for more than three weeks without seeing any promise of eventual success in his proceedings, concerted with his fellow conspirators to abscond, and that during his absence a charge of abduction should be preferred. I do not, however, confine my defence to the prima facie improbability of guilt. I proceed to point out what appear to me to be the glaring inconsistencies, contradictions, and improbabilities of the evidence upon which it is attempted to support the charge preferred against my Gomastah and Nugdees. But, before proceeding to do so, I must remind the Court that I am totally ignorant of all that passed, or is alleged to have passed, at Bulluttee on the day of the alleged abduction, and that I have only the same opportunity which the Court itself possesses of judging whether or not my Gomastah and Nugdees were guilty of the conduct imputed to them.

In the first place, the abduction of the Plaintiff's husband is said to have been made openly in broad daylight in the centre of a populous village. The unlawful act is observed by several of the villagers to whom Muddun Dey was perfectly well known, and by the whole assembly of masters and scholars at the English school, which Muddun Dey's grandson, Koylas, attended. Early intelligence of the fact was conveyed to the Plaintiff's wife, and she says had them spread through the whole village. This intelligence she got in time to reach the schoolhouse of Bulluttee, while her husband was yet in sight at the distance of not many yards, being forcibly carried off. Yet, notwithstanding the populousness of the neighbourhood, not only was no attempt made to rescue Muddun (though his captors were according to no account more than five in number, and according to his own statement and that of the majority of the Plaintiff's witnesses only three); but no information was given at the Police Ghattee, which was at a distance of not more than 300 yards, or assistance asked thence, nor any complaint made to the Police Darogah until after the lapse of three days. Can evidence given long after the alleged occurrence, and so wholly incorroborated by any contemporaneous acts of the witnesses, such as would have been the natural consequence of what they observed, be deemed worthy of a moment's belief? If so, one of the most generally recognized tests of the genuineness of evidence must be wholly lost sight of.

The improbabilities which beset the story of the Plaintiff's witnesses in the outset do not cease to accompany it on its further progress.

The captured man was, according to their account, taken leisurely, and in open daylight, for a distance of 2 or 2½ coss, in the course of which he had to pass the Police Ghattee of Mirgilla to my house in the town of Ootterparrah, where also there is a Police Station. Thence he was conveyed to Chinsurah; there landed at a public and much frequented ghaut, having a Thannah in the immediate neighbourhood, several minor Police Stations all along the road, and near to which

European sentries keep guard. Thence he was taken by the public road to Dwarbassiny, a distance of 16 miles, past several Police Stations, matters being so contrived that he did not arrive at his destination until far into the day. An attested map of Chinsurah and Hooghly has been filed by me to show that Muddun could not be carried into the interior without encountering more than five Police Stations.

It can hardly be supposed that he would not meet several passengers in the way; he confesses himself that he met one or two, but he passed them in silence, thinking it useless, he says, to ask their assistance, or inform them that he was in unlawful custody; but it is not unknown to the Court that this public road is frequented every moment in the daytime by dozens of people of all classes.

At Gonyee, his final place of confinement, the nature of his custody was such that, according to the statement of one of his own witnesses, Jumoodeen Shaike, he was visible to all passers. Materials of writing were left in the room where he ordinarily resided, and he eventually found means of having a letter conveyed to the Police of Doomjoor, informing them that he was in confinement. The fact of such a letter having been conveyed seems unquestionable; but it is equally certain that Muddun despatched the letter, not while in a state of confinement, but for fulfilling a part of a scheme he had taken upon himself to carry out. This will at once appear clearly on observing that the Thannahs of Pandooah and Dhunnakally were situated on each side of the place where Muddun is said to have been confined, at a distance of only 5 or 6 miles. If his object had been to liberate himself speedily, he had only to send a letter to either of those officers, instead of writing to the Darogah of Doomjoor at a distance of 40 miles, where delay and risk were so great as to deter any prudent man from undertaking the task in preference to the other, the Police in that part of the country not being subservient to me, which is a matter of record; and therefore Muddun had nothing to fear from their connivance. It may be remarked also that the

messenger by whom Muddun states that he despatched the letter denies that he ever received it. I place little or no reliance upon this contradiction, and only notice it to remark that the witness who makes it was produced for the prosecution, not the defence. It seems from the evidence of another witness that the man was at one time in collusion with Muddun and Mohesh; why he has subsequently quarrelled with them I know not. The only use I can make of his evidence is as showing what is the trustworthiness of those with whom Muddun was colluded to get up evidence. He was supplied regularly with food by a shopkeeper of the village during his confinement. The Police who went to liberate him found his confinement no secret in the village; and when after a good deal of coquetting they made up their minds to attempt his rescue, the door of Muddun Dey's alleged prison was opened to one of their number, who exhibited no insignia of office, by a woman, and Muddun Dey was allowed quietly and without opposition or molestation to walk out with him, and to leave the place with the Police, who contented themselves without any endeavour to capture any of those by whom Muddun had been detained, and who are said to have been present on the spot. The Police party consisted of more than ten persons, including Chowkedars and others; what then prevented them from capturing two Nugdees, had they really been there? They also allowed three or four hours to pass by, during which time the prisoner might have been safely and quietly removed to another place. This is such a fatal defect in the proceedings of the Doomjoor Police that the Court itself closely pushed them on this point at their cross-examination.

If a moment's credence could be given to this strange story, it would be hard to say which would be the most surprising: the audacity of the Zemindar in capturing his prey in open daylight, and in the midst of the friends and neighbours of the prisoner, and afterwards having been conveyed from place to place without any attempt at concealment; the apathetic acquiescence of the prisoner and his friends in the

act of violence; or the carelessness of the Zemindar respecting the custody of his prisoner, and his indifference to the discovery of the outrage of which he had been guilty.

I now proceed to notice some glaring discrepancies between the evidence of individual witnesses.

On the 5th day of March, 1858, a few days after Muddun Dey's alleged capture, Prem Chand, a Police Chowkedar, was examined before the Magistrate, and deposed that he had merely hearsay knowledge, gained from the conversation of some schoolboys and travellers, that Muddun Dey had been arrested and carried away by my men. This statement he confirmed on his subsequent cross-examination on the 5th of June, distinctly deposing that he did not see Muddun in custody at all. Now, Muddun himself, upon being examined on the 26th of May, immediately after his alleged escape from custody, and when he had consequently had little opportunity for getting up his case, stated that after his capture, and while he was being carried along the road towards Narain Paul's house, he was met by Prem Chand, Chowkedar, to whom he complained that he was being unlawfully carried off; and that thereupon the Chowkedar caught hold of his hands to rescue him, but in consequence of the threats of Muddun's captors was obliged to let him go.

This discrepancy appears to me so striking, that it would in itself be fatal to the case attempted to be made against us, and I beg the Court to note the impossibility of its being attributed to collusion. Prem Chand's first deposition was made on a preliminary investigation without the previous knowledge of myself or my people that he was to be examined, and at a time when it was utterly impossible that we should foresee that Muddun would depose to a conversation with, and attempted rescue by, the witness. Moreover, it is most improbable that we should there have endeavoured to lay a foundation for a future discrepancy, as we could only have expected that Prem Chand's statement would be made known to Muddun before the latter should be examined, and that Muddun would make his story consistent with it.

Again, Muddun Dey has deposed that, when passing the school at Bulluttee, he spoke with his grandson, Koylash, who attended the school, and by him sent word to his house, that he was being forcibly carried off. The head master and two pundits of the school were examined, and deposed that they saw Muddun being carried past the school and for some distance beyond it; but not one of them saw Muddun speak with Koylash, or saw Koylash leave the school, or was aware that he left the school about that time. Koylash's absence could hardly have remained unremarked, as the school continued for more than two hours after Muddun was carried past the school. Moreover, Koylash has not been produced by the prosecution to corroborate the statement of Muddun Dey.

Further, Keenee Dassee, the Prosecutrix, has deposed that on hearing that her husband was being carried off, she followed him as far as the school-house, and thence saw him a short distance further upon the road being taken away in custody. The masters and the pundits say that they saw no woman come up about the time when Muddun was being taken along the road past the school; she could hardly fail to have been noticed, if really there, as she says that she ran up the road as if her life was in danger, and afterwards went home crying. Moreover, the head master says that he was previously acquainted with the woman as well as Muddun, therefore could not have failed to note to recollect her presence, had she really gone there.

Keenee Dassee has deposed, that from the school she saw two or three persons carrying off her husband, and five others, whose names she mentions, among whom she included my Gomastah, Judoonauth Moozomdar, following and assisting the captors, and that she knew that all were engaged in one business from some of them running fast one after the other. The distance at which she says she saw her husband was about 200 hands, and five persons about 125 hands. Now the masters and pundits of the school all agree in saying that three persons only went with Muddun when he passed the school, and that not until at least ½ of an hour afterwards the persons identified by

Keenee Dassee came up proceeding in the same direction ; and they all concur in stating that Juddoo Moozomdar, the Gomastah, who was previously known to them all, was not among the number of those who accompanied or followed Muddun. Muddun's own statment contradicts her on this as well as on many other points.

I would here remak that the masters and pundits are the only witnesses who speak to Muddun's being carried away to whom any credit arising from their position in life attaches.

None of them identify any one of those in whose actual custody Muddun was seen, and they all expressly negative the assertion that Juddoo Moozomdar was of the party.

The evidence of these witnesses, therefore, if considered wholly trustworthy, is not inconsistent with the supposition that Muddun, meditating a false charge of abduction, contrived to allow himself to be seen in the act of being carried off in apparent custody by confederates of his own. With this accords the fact, observed by the masters and pundits, that Muddun was being taken off without any degree of violence being used, and was not offering any resistance, or attempting to obtain help from the bystanders,—a course which, in concocting this portion of the case, he no doubt considered the most advisable, inasmuch as had he chosen to represent himself as the victim of violence and personal illtreatment to the masters and pundits, or solicited their assistance, it is probable that the latter would have interfered, and so at once put an end to the ingenious scheme by which Muddun attempts to support this case. And I may here remind the Court that Muddun Dey is no ignorant and timid villager ; but, as the Court must have seen during the course of these proceedings, a man of considerable intelligence, and most voluble and pertinacious in asserting his rights ; and moreover, that he has not passed his life immured in his native village, but has served Government for a considerable time as Commissariat Gomastah in several stations in the Upper Provinces.

I have only noticed above the most glaring discrepancies in the evidence. Numerous others of more or less importance may

be detected on comparing the evidence of almost any two witnesses who depose to occurrences alleged to have taken place about the same particular time and place. But it would be less wearisome to the Court that these should be pointed out by Counsel, when they address the Court orally in my defence.

I cannot conclude my remarks upon the Plaintiff's case, without requesting the Court to advert to the fact that hitherto I have examined it merely in its bearing against my Gomastah and Nugdees. There is not a tittle of evidence which affects me directly, or brings home to me individually any complicity in the alleged abduction. I am not even named as defendant by the Prosecutrix, doubtless because she was well aware that I was at the time of her husband's alleged abduction absent from home, on my annual tour of inspection of my property at places far removed from Bulluttee, and the alleged places of Muddun Dey's confinement. This omission of my name was from no feeling of honesty or charity towards me, as in another case got up by Muddun Dey and his party, in which one Juggo Paul, a relation of Muddun Dey, figured as complainant, I was named as a defendant, the time of the alleged abduction of the last named complainant being laid down before my leaving Ooterparah. Muddun Dey himself, in his lengthy deposition, has distinctly admitted my absence from home at the time of his alleged capture, nor does he anywhere state that he was detained by my authority, or with my knowledge. Perhaps it would have been sufficient to rest my defence upon this alone. But as I have a character which I desire to keep free even from suspicion, I have thought it best to notice at some length the improbabilities and inconsistencies of the case, even as it affects those who are in my employ ; and although I think it abundantly clear that the case of the Plaintiff has broken down from its own inherent weakness, I have, for the further satisfaction of the Court, produced numerous witnesses, some of whom would seem more properly to belong to the case for the prosecution ; and gone into evidence upon every point upon which it seemed to me that any shade of doubt could probably be thought to rest.

By these I have incontestably established that at the time of the alleged abduction of Muddun Dey, I was not at Ooterparah or Dwarbassiny, or in the neighbourhood of the alleged occurrences; but at Mirzanugger, Myapore, Cowcher near Cutwa, and Khirpie in Chunderconah, and in other distant places. At an earlier stage of the case I stated to the Court my intention to establish this fact by the evidence of Moonshiffs, Deputy Magistrates, and other persons holding responsible appointments in the places which I visited during my tour, and whose names I then mentioned; but I have yielded to the advice of my counsel, who have expressed an opinion that as not a single witness has deposed to my presence at or near the places of Muddun Dey's alleged confinement or abduction, it would be a work of supererogation to prove an alibi by a body of testimony which could only be produced at great inconvenience and detriment to the public service. I have, moreover, offered abundance of respectable evidence to show what was the true relation between myself and Mohesh Banerjee, the inhabitant of Goayee, in whose house it is alleged that Muddun Dey was kept during the latter part of his confinement; and have carried this fact of the case further, by shewing on evidence which I believe to be trustworthy, that the testimony upon which the prosecutrix has attempted to shew that Mohesh Banerjee was remaining in my service at the time of Muddun Dey's alleged detention in his house was fraudulently got up. Goayee is not a village which belongs to me, and therefore the Plaintiff has thought it necessary, in order to establish complicity between Mohesh and myself, to prove that Mohesh was the Gomastah employed by me at the neighbouring village of Jair. I have by the evidence above alluded to proved that the fact is, that Mohesh had been dismissed from my employ many months prior to the period (extending from the 3rd of April to the 25th of May last) during which it is alleged that Muddun was confined in his house, in consequence of his (Mohesh's) having joined in a conspiracy with the ryots of Goayee against my nephew, who is the Zemindar of the village, but altogether separated from me

in property and house, as the Court is already aware. *I have moreover shown that my nephew, Hurryhur Mookerjee, the Zemindar of Goayee, had on the 27th of March last instituted proceedings against this very Mohesh and his brothers, under Regulation II of* 1819, *for the resumption of the house and lands in their possession, which they held illegally without paying rent for the same. I have filed an authenticated copy of a notice which proves that this suit was commenced in the Hooghly Collectorate on the day last mentioned, and this being the case, it is wholly incredible that I should, on the week following, select the house of Mohesh as the place of confinement for my captured ryot.* To prove that Mohesh was my Gomastah at the time of Muddun's confinement in his house, the Darogah of Doomjoor has brought down to the Court in custody of his Burkundazes four ryots of Jair, of the poorest class, who, besides giving oral testimony, produced 27 papers, which purported to be receipts for rents signed by Mohesh as my Gomastah. In more than one instance it appeared upon cross-examination that the receipts produced were not the most recent which had been given to the ryots who produced them. The evidence of these ryots was so vague and unsatisfactory as to call for remark from the Court itself, which reproved the Darogah for not having selected more respectable witnesses. His omission to do so was indeed worthy of notice. It may well be asked why none of the principal ryots, monduls, and others, were summoned to give evidence. Such I have produced as my witnesses, to prove that not Mohesh, but one Bassnath, Pundit, had been my Gomastah of Jair for a considerable time previous to the alleged abduction of Muddun Dey. This would also have been at once discovered by the Darogah, had he taken the obvious course of proceeding to the Mal Cutchery of Jair, and have there seized upon the papers relating to the Zemindary accounts. This appears so manifestly to be the course that one, really anxious to ascertain who was the Gomastah of Jair, would have pursued, that its omission raises great doubts as to the good faith with which the Darogah

conducted his investigation. These doubts are strengthened, when it is found that the Darogah, instead of proceeding to a central spot in the village of Jair to hold the investigation, selected what my witnesses have proved to be an out of the way cottage at one extremity. I have myself produced and proved on oath the Zemindary accounts, which show that Bassinauth Pundit was really the Gomastah of Jair during the period in question. The Court will not fail to advert to the facility with which Mohesh could, if in collusion with my accusers, as I think it abundantly appears that he has, fabricate the alleged receipts bearing his signature as Gomastah, and I have proved that Muddun's friends had secretly gone to the village of Jair, previous to the visits of the Darogah of Doomjoor, and had been concerting measures with certain ryots of the village hostile to the Zemindar, and had endeavoured to induce other ryots to bring forward fabricated receipts as having been given to them by Mohesh, in his alleged capacity of Gomastah. Moreover, I have proved that of the four persons brought down from Jair to give evidence, three were not in fact my ryots at all, but were part of those whose evidence had been prepared beforehand at the secret meetings alluded to. I may here remind the Court that, after I had closed my evidence on defence, the Court thought proper of its own motion to summon the Darogah of Pandooah as a witness for the prosecution. It is evident from the account given by this witness that he took no very active part in the conduct of the investigation at Jair ; but, having subscribed the report of the Darogah of Doomjoor, he is now bound to support, as far as he can, the statements made by the last named officer.

Nevertheless, facts creep out in the deposition of the Pandooah Darogah highly favourable to my case. He distinctly states that several of the ryots of Jair, on being asked who was the Gomastah of the village, named Bassinauth Pundit. As there could not by any possibility be any collusion between me and the ryots, as I had no information whatever that any investigation was to be held, the mentioning Bassinauth Pundit's

name is quite conclusive of the fact of his having been really the Gomastah, and would not be in any way invalidated by others having named another man, formerly Gomastah of the village, even were the evidence of their having so named him more satisfactory in its character. If Bassinauth was not really the Gomastah, what could have suggested the mention of his name? none of my people being there to make the suggestion, the Karcoon who was coming up after the commencement of the enquiry having been driven away, and kept at a distance in charge of Burkundazes. This piece of evidence is of the more importance, as I took no step whatever to procure the examination of the Pandooah Darogah.

Had the Karcoon been allowed to know what was going on at the investigation (and the very fact of his being prevented throws a grave doubt on the good faith of the whole transaction), he could no doubt have produced Bassinauth himself, the Zemindary papers, and the respectable inhabitants of the village; and none of the doubts which hang over this part of the case could have had any existence. Not only was the Karcoon kept at a distance, but no attempt seems to have been made to obtain any evidence from the large body of ryots who had collected at a small distance, and who came from all quarters of the village. The investigation was conducted in a corner of the village chiefly inhabited by the ryots of hostile Aymehdars.

Further, I have filed copies of procedings in the Criminal Courts, which will prove that ever since the year 1856, constant disputes had been proceeding between my nephew the Zemindar, and the ryots of Goayee, the village which I am supposed to have selected as the site of my Mofussil jail, notwithstanding that I have 200 villages of my own in the immediate neighbourhood, any one of which would have been more convenient for my purpose. I have also produced witnesses, neighbours of Mohesh, who depose that Muddun Dey and Mohesh were old acquaintances and connected in business, and that Muddun Dey had been seen, 2 or 3 days previous to his alleged rescue, in the house of Mohesh, apparently as a guest and under no restraint.

In the course of the examination of one witness named Ramdhone Paul, the Court expressed some surprise, that it was very extraordinary that Muddun Dey should be kept for purposes of fraud in a house close to that of a person in my employ. The reason is obvious. Muddun Dey's object was that during the three or four days he remained as guest at Goayee, he should make it appear that my Amlahs were cognizant of the fact, and that the people in the neighbourhood also knew that it was so. Why this witness did not give notice to my Naib on his first seeing Muddun is also easily explained. He did not know that there was any suit pending against another Gomastah of mine in the Howrah Court. The position of both these villages are at a distance of more than forty miles, and each of them acted under different Naibs. It must be kept in view that at that time there was no case pending in this Court, the object of which was personally to implicate me in the matter; and therefore it did not at all follow that, although my servants living close to Bullutee might know of the matter, other servants in my employ resident many miles off should ever have heard of it. *Had the local Police been examined, as I had prayed for, the conduct of the Doomjoor Thannah Mohurir who had gone to Goayee to rescue Muddun would have appeared in its proper light, and would have further revealed the object of Muddun's living in Mohesh's house. Goayee is situated in Thannah Dhunakally, not one officer of which had been examined, though the Doomjoor Police stated that Muddun was rescued chiefly by the assistance of the former.*

I have also, wherever it was practicable to do so, met the evidence of Muddun by the direct contradictions of other witnesses, as for instance by that of witnesses with whom he had the hardihood to state that he had interviews during his confinement, and who have flatly contradicted his statements in this respect. My half brother, Baboo Bejoykissen Mookerjee, a man of independent property, is one of those who have thus appeared to give the lie to Muddun Dey.

With respect to the two Nugdees whom Muddun has named as having had charge of him since the 16th of February last,

the Court in the course of the case intimated that it would view with suspicion their absence, if not produced by me to give evidence. I beg respectfully to state that these men were in my service formerly ; their names having been returned by me in the list of Nugdees in my service filed by me in the Fouzdary Courts of Hooghly and Serampore in April last (a piece of frankness on my part which is hardly reconcileable with the idea that I was then making use of them as my agents in an act of gross oppression). But I have proved that the men were both dismissed from my employ on the 6th of May last, and I then understood it to be their intention to go to their homes in the North Western Provinces. This dismissal took place before Muddun was examined in this case, and consequently before I could be aware that he would name these as concerned in this case. I am unable to produce men not in my employ, the production of whom is moreover rendered doubly difficult, by a very serious charge having been preferred against them ; but I offered as long ago as four months, that if the Court would issue warrants for their appearance, I would use every endeavour to ascertain and point out their dwellings. I may moreover remark that, supposing me to have retained sufficient influence over these men after their dismissal to produce their attendance before the Court as witnesses, the same influence would of course have been effectual to induce them to give evidence in my favor ; indeed they could not have given any of a contrary import, without exposing themselves to the heavy penalties of the law for having been concerned in false imprisonment.

It may not be considered irrelevant for me to advert to the antecedents of my accuser (for such in fact he is, though his wife is the nominal Prosecutrix) Muddun Dey.

This man was formerly in the employ of Mrs. Jerard of Dacca in her wood manufactory, whence he disappeared, being supposed to have taken with him two or three thousand rupees. Subsequently he was employed about three or four years ago as a Commissariat Gomastah under Government, in the division of

Kussowlee, but absconded, having embezzled about 2000 Rupees, although the money has been subsequently realized from his securities ; yet the fact of the embezzlement remains the same, and a reference to Colonel Ramsay, the Commissary General, will verify the truth of my statement.

In conclusion, I cannot in justice to myself fail to point out to the Court the great disadvantages under which I have labored throughout the case. The Sessions Judge of this district having, no doubt, actuated by the most generous motives, but misled by an exparte statement, intimated an opinion that the present proceedings ought to be instituted against me, the parties who had conspired to accuse my Gomastah, but had not previously attempted to implicate me, felt of course much encouraged, and were emboldened to put in practice more audaciously than ever the low arts by which conspiracies such as that in which they were engaged are generally supported. The hostile villagers, who, previous to the Judye's remarks, had not ventured to appear as witnesses, were led to consider perjury a safe game, and forthwith appeared in numbers. The subordinate Mofussil and Court officers were impressed with the idea that their exertions to procure my conviction would be regarded by the higher authorities in the light of good service. More especially the Darogah of Doomjoor has been induced to act the part of a decided partizan (of which fact I have furnished some evidence in the deposition of Rajkissore Mookerjee, a witness whose position in life puts him above all suspicions of having been tampered with, and in those of four ryots of Bhascoor and one of Bulluttee, who depose to the intimidation and threats used by the Darogah towards witnesses produced before him), having shewn an activity wholly unprecedented in hunting up evidence ; having conducted his investigation with a secrecy which is at once unusual, and highly prejudicial to justice, as having opportunity for intimidating and tampering with witnesses. He has moreover not hesiated to bring witnesses to Court in the custody of Burkundazes, and to keep them in confinement and without food, until their evidence had been given. The ear of the Court has

moreover been abused by numberless accusations preferred against me, of tampering with witnesses, and keeping them out of the way, and my most simple and ordinary proceedings (for instance, that of collecting earthen pots according to my annual custom at Bulluttee, for the purpose of being conveyed to Ooterparah) have been construed as fraught with some mysterious and sinister meaning, and have been made the occasion of requiring from me security for good behavior, and for appearance to answer the charge against me to an unsually heavy, and even oppressive, amount.

The inevitable, though doubtless wholly unintended result of this course has been, that I have been viewed by the ignorant villagers from the very commencement of this investigation in the light of a pre-condemned man, the effect of which opinion upon those who have been produced as witnesses against me I need hardly point out to the Court.

S

11TH NOVEMBER, 1858.

Deposition of witness Peary Loll Banerjee Monsiff.

Q. Did you see the defendant Baboo Joykissen on the last day when the case was taken up ?

A. I saw him at my house; I was sleeping in a upper story room of the inner apartment of my house, when a gentleman, whom I don't wish to name, came to me and asked me to come out. On my questioning why I was to come out, he said, " there is something for you to do." On my persisting to know the reason why I was to do so, he told me " Joykissen Baboo is here, and you should come out." The gentleman then entered into my room, and with him I went to the room (bytuckhana) in the outer apartment of my house. My father told me to sit near Baboo Joykissen. There were in the room two other gentlemen (whose names I do not wish to mention), my father and his uncle, and a servant. Joykissen Baboo enquired why I

have done such a thing. I said, " what ?" Then the Baboo said, " I heard that you advised my Gomastah, Juddoo Moozomdar, to produce my letters before the Magistrate. I said, " I do not know anything of this." On my father's asking the Baboo from whom he had come to know this, he replied that he heard it from Juddoo's brother, and also from his Mooktear, and said that there is no necessity of making further enquiries into the matter. *The Baboo then spoke to me* and my *father about adopting some remedial measures.* My father requested the Baboo to send for Juddoo Moozomdar's brother, upon which the Baboo said, " ask Bejoy Baboo and Koylas Mookerjee, who are at Jugoobundoo Baboo's bytuckhanah, to go and bring Juddoo's brother from my bytuckhanah, in a carriage which Bejoy has with him, to Issur Baboo's home." My father's uncle, who was requested to do the above, went out to bring him. In the meantime Joykissen Baboo said to me, " *what course I am to take now ?*" and I told him " I do not understand Fouzdaree cases well, so I cannot say what measures you can adopt." The other gentlemen who were sitting there observed, "you are now a Moonsiff, and afterwards you will be a Sudder Ameen, when you will have to decide criminal cases." I said, " I will know then." At this time my father's uncle came back, and said that Bejoy Baboo and Koylas Mookerjee were not at Jugoobundoo Baboo's bytuckhana, but were walking before Koylas Mookerjee's house ; and on my telling them they had gone to bring Juddoo's brother, my father desired me to do something for Baboo Joykissen. I asked the Baboo what would be the best course to follow ; *upon which he said, " at any rate you must remove Juddoo Moozomdar to somewhere or other.*" I said, " I cannot do this," and on my father and other gentlemen insisting upon me to do so, I said, " except removing Juddoo, I am ready to do whatever you wish me to do." After this they all went away ; but before their departure Juddoo's brother arrived. My father asked him how he came to know that Peary advised Juddoonauth to produce the letters in question before the Magistrate. He replied, " I have neither seen Peary Baboo, nor know him from before. I heard of the matter from some one

else." My father questioned Juddoo's brother whether he had heard it from his brother himself. He answered, "no." Soon after the defendant Baboo and others went away, and I retired into my bed chamber. In the morning of the day following, on my coming home after bathing, my father said to me, "Joykissen Baboo sent Koylas Mookerjee to say that you should remain at home to-day." On the *Bejoyah* day I was invited by Joykissen Baboo, but told him, "I become sick if I take my breakfast at a late hour, so I will go after dinner." This I said to Koylas Mookerjee on his coming to invite me. I went to Joykissen Baboo's house afterwards, and after arrival there, the head clerk of the Howrah Post Office—I believe his name is Rai Churn Chuckurbuttee, and Taruknauth Chatterjea also came there. Rai Churn said, "Hallo! Peary Baboo, why are you here?" I replied, "I have some business here for which I am awaiting." Joykissen Baboo sent away Taruknauth Chatterjee, Rai Churn Chuckurbuttee, and another man who was there, to another room to take a little refreshment, and *I and Joykissen Baboo remained together*. On this opportunity Joykissen Baboo asked me if I had heard anything about the preparations of the opposite party. I said "no." The Baboo also said, "I would call the filed letters as forged ones." I said, "I have heard that these letters are in the handwritings of your Amlahs. Is it probable to call these letters forged—so many letters and handwritings of many Amlahs, will they be thought forged?" Joy Kissen Baboo said, "write Bengally or English on an old paper, and it can be forged in no time." I said, "if you can prove them to be forged letters it will be much to your benefit." After this Joykissen Baboo told me to remove Judddoo Moozomdar if I could do so. I replied that it was out of my power. No other conversation had I with him besides these relating to the case. The said Raichurn Chuckerbuttee and others came there after taking their tiffins.

Q. Did Joykissen Baboo tell you that these letters are forged or what?

A. The Baboo said "*Will all the forged letters be credited?*"

Q. Did the Baboo say that these letters were forged letters?

A. No ; he did not say this. I said, " if you can prove them to be forged letters you will be acquitted." When these conversations were carried on, I and the defendant Baboo were there. Rai Churn and others were not there, nor have they heard any part of our conversation.

17TH NOVEMBER, 1858.

Cross-examination of Witness Peary Loll Banerjee, Moonsiff.

Being questioned by the defendant's Mooktear stated ;—I know Baboo Joykissen from my birth, because he and I live together in one village. I had enmity with the above Baboo before, which arose in connection with the affairs of Manoka Debee, whose husband was Debnarain Roy.

The witness objecting to reply to questions of this nature, the Counsel on the part of the defendant submitted to the Court that to throw discredit on the testimony of the witness these questions are asked. On this the Court ordered that the witness must answer them.

Being questioned, replied :—I got a certificate of the Will executed by late Debnarain Roy, which certificate the Sudder Dewanny Adawlut disapproved and cancelled. And on account of his assisting the above widow, our dispute ensued with the defendant.

Q. Did you file various petitions against Joykissen Mookerjee into different Courts or not ?

A. Yes, I did.

Q. Did you hear of the existence of the letters filed in this Court before you met the defendant Baboo ?

A. Yes, I did hear ; but on what date I do not recollect.

Q. Did you see or read those letters or not ?

A. Before they were filed in the Court I did not see them.

Q. Were you come to the Court on the day the defendant Juddoo filed the letters ?

A. I did not come with Juddoo, but came only to see the proceedings.

Q. Were you aware of the particulars before Juddoo filed the letters ?

A. I was not aware of it, but had heard of it.

Q. From whom did you hear it?

A. I do not recollect.

Q. Do you know the Deputy Magistrate, Baboo Nilmoney Mittre, or not?

The above question being put by the Counsel, the Court said that if any doubts were entertained of the genuineness of the letters filed, the defendant is at liberty to offer proofs, and then if it is necessary to take the Deputy Magistrate's deposition, it will be taken; but when the witness has not made any mention of the Deputy Magistrate in his deposition, how can he be questioned on that point?

Q. Did you consult with the Deputy Magistrate on the advisability of filing these letters or not?

The answer to such question being considered unnecessary, the Court ordered that if there were proofs of that, the defendant is at liberty to offer them.

Being questioned replied:—I did not go with Juddoo to Nilmoney Baboo to have the letters filed.

Q. Did you go to the said Deputy Magistrate Baboo any day on the subject of the letters, accompanied by Juddoo.

A. No.

Being questioned replied:— I spoke to Mr. Latour about the filing of the letters after they were filed, and not before it.

Q. Did you go to the Sessions Judge with Juddoo any day or not?

A. No.

Being questioned stated:—I did not hold any consultation with Juddoo on the subject of filing these letters to the Court, nor did we come together with Juddoo before that event.

Being questioned stated:—I had no consultations with Juddoo on any affair, and did not come in contact with him before the letters were filed.

Q. Is the defendant in the habit of going to your house?

A. The, defendant, at the time of his mother's shraud, came to our house and we returned his visits. At this time our differ

ences were made up, and besides that he came to my house the other day only for this suit.

Q. Is there any custom among you to invite persons in enmity during the Doorga Poojah, even when such enmity is continuing?

A. I am not acquainted with the practices of all the villages; but I know that when I was in enmity with the defendant, he did not invite me in the Poojah time.

Being questioned stated:—Three days before the Poojah, the defendant Baboo came to my house, and at that time my father, our servants, and my father's uncle were present, besides other respectable men, whose names I will not mention, as I told the Court the other day.

Being questioned stated.—The defendant Baboo came to my house at 9½ P. M.

Q. Tell the names of the respectable men present at your house when the defendant Baboo visited you.

A. Lukee Narain Banerjee and Juggo Bundho Banerjee heard all the conversation I had with Joykissen Baboo. They were all present when these conversations took place; but whether there were others or not, I have no exact recollection.

Being questioned replied:—I never spoke to any pleader of the Sessions Judge's Court of the 24 Pergunnahs, nor to any of the native officers of the audit office, on the subject of my having spoken to the Sessions Judge and the Magistrate about the guilt of the defendant Baboo.

T

17TH NOVEMBER 1858.

Witness Obinas Chunder Mookerjee.

Q. Did you not go to Bhuderkally by the order of the Magistrate eight or ten days ago?

A. I have been by order of the Magistrate to Bhuderkally Sunday before last Sunday, the date I don't recollect. I reached there at about seven or eight P. M. There were the

Darogah of Sulkeah Thannah, Kristo Chunder Dutt, and Ram Rhogo and Gopal, two Barkundazes, with me.

Q. What did you hear and see there ?

A. On arriving at Juddoo Moozomdars' house, Juddoo took us all to a thatched house inside his compound, and made us sit down there. Then he said, "two of Joykissen Baboo's men have come to me with overtures of a compromise; you had better come" Juddoo said, "the two men sent to him are by name one Birrashur Banerjee or Mookerjee, I don't recollect which, and Hurrish Chunder Mookerjee." On account of Juddoo's not telling us where we should stop, and on his going away in a hurry, we remained where we were. A short time afterwards, that is 15 or 20 minutes after, Juddoo came back to us, and took us with him to a pucca room in front of the same house. There was no light in the puccaroom. There is a room behind the same, in which a window was open. He desired us to overhear the conversation from that place. Accordingly I and the Darogah stood there. Whether the Barkundazes were in the yard or elsewhere I don't know. The window near which we stood was a central window, through which the other room could be seen. Juddoo, going to that room, closed the doors. We saw from the place we were that a lamp was burning, and two men were seated.

On going there Juddoo siad to one of the two men sitting, "you are come as Joykissen Baboo's representative, therefore I consider you as the Baboo." Juddoo said "the Baboo has consented to give me 5,000 Rs., and whatever he wishes me to do I am prepared to do." Juddoo said where is the money *i. e.*, the Bank notes amounting to 3,000 Rs. in 3 pieces, and 2,000 Rs. in 4 pieces? One of them said (whose name I knew not then; his appearance not fair, and without mustachios) "the same money is with me." On hearing this Juddoo replied "I do not believe the money will be paid to my wife, after I am imprisoned or dead. Go and get the money and I will hand it over to my wife, who will deposit the same with you." Juddoo further said "unless you act in

this way, I would not believe your words, because formerly in the case of Juggo Paul the Baboo gave 500 Rs. for compromising the matter with him, of which I only saw one hundred Rs. given to him." Juddoo then looked at the man of the dark colour who was there, and said, " you know where that 400 Rs. gone to. That man said there is no use of such a talk now ; what has that to do with your case ? Now speak about your business." Juddoo then said, " tell me when you will bring the money to-morrow." The man without mustachios on hearing this replied " if you consent we can bring the money to-morrow." Juddoo said to the dark colored man, " of the 5,000 Rs. you take 500 Rs., and give me the remainder 4½ thousand. I have no objection to such a compromise." I thought their conversation was over. I came out and went to the thatched house again ; the Darogah was 2 or 3 minutes there after me. I did not go there again and did not hear any more of their conversation. 5, 6, or 7 minutes after Juddoo told us that they have gone away. I and the Darogah asked Judoo about their names, when he said that the dark colored man's name is Birrashur, a relation of Joykissen Baboo, and the other man is by name Hurrish Chunder Mookerjee ; his house is at Bhudrokally ; he has stood as a mediator and the money is to be kept with him. (Afterwards said that at the time these men were in Juddoo's room they had come out of the room to the thatched verandah.) Judoo coming close to us at that time said that they would bring the money to-morrow morning. We said " we have no convenience in living here, and we will not be able to come to-morrow morning." On hearing this, Juddoo went to them and coming back said that he would send us notice at one o'clock P. M., when they bring the money to him. Juddoo then told us that they had gone away. We came away also. I had no other talk with Juddoo about this case afterwards.

Being questioned replied.—Of the two men I saw at Judoo's house, one was seen in this Cutchery one day. He was standing on the south side of the Court. I do not know whether the same man came with Joykissen Baboo or not. I can so far say that of the two, one was seen here one day.

Being questioned by the defendants Counsel stated.—Before we went to Juddoo's place we had a talk of going there with him. The day before we had gone there, the Magistrate gave me orders to go to Juddoo's house with the Darogah of Sulkeah. I believe I never saw before the two men I saw at Juddoo's house. If I saw them I did not do so attentively. The man whom I saw in this Cutchery told me on being asked that his name is Birrashur. I did not know their names before. Juddoo told me of them. That Sunday Juddoo was not in company with us. On our arrival there Juddoo told us the object of our going; he was waiting for us.

Being questioned stated.—Juddoo went to and fro during the 20 minutes we were in the thatch. Whether the same two men were come there of their own accord or were brought by Juddoo I cannot say. Juddoo within that time 2 or 3 times told me that they will come.

Question of the Court.—

Q. If you were talking with Juddoo, and the others were in the adjoining room, how could they not hear you ?

A. Because we did not speak with Juddoo and went in the room barefooted. The thatch was about 20 feet distant from the pucca room.

Q. Did not Juddoo say before the Haujoor on Saturday before you went there that that day was fixed for giving and receiving the money, and that if men were sent that evening the 5,000 Rs. can be had ; if not he would answer for that ?

A. Juddoo said that, and men were about to be sent that day, but was not deputed in consequence of delay.

Being questioned by the defendants counsel said.—Juddoo did not ask us to arrest those two men when we were at Juddoo's place.

Being questioned by the defendant's Mooktear said.—Juddoo has not told me since when the money was to be paid.

Being questioned by the defendant's Mooktear said.—Juddoo has not told me since whether he has received the money or not.

U

18TH NOVEMBER, 1858.

Deposition of Witness Kaly Nauth Mookerjee of Kidderpore.

Q. Can you identify the handwriting of Isser Chunder Mookerjee, the Dewan of Baboo Joykissen Mookerjee ?

A. Yes.

Q. Look at the letters Nos. 7, 8, and 13 in the file No. 2, and say in whose handwriting they are.

A. The witness, looking at Nos. 7 and 8 said.—They are in the handwriting of Isser Chunder Mookerjee, but the letter No. 13, in whose handwriting, whether of Isser Chunder Mookerjee or not, I cannot exactly say, as a portion of the same is written plain and a portion rough. He also looked at letters No., 14 and 15, and said.—The first part of the former is like the above Isser Chunder's handwriting, but I cannot say who wrote out the conclusion ; the latter is in the handwriting of Isser Chunder Mookerjee.

Q. Look at the letters marked 2, and say in whose handwriting they are.

Looking at No. 526, said.—I cannot say in whose handwriting it is. The letter No. 530 is in the handwriting of Isser Chunder Mookerjee, the letter No. 538 is also in the handwriting of Isser Chunder ; the letters No. 232, 529, and 423, respectively, also in the handwriting of the Dewan ; the letter No., 405 appears to have been written by Isser Chunder, though in thin characters ; the letters No. 513 and 495 are also in the handwriting of the said Isser Chunder Mookerjee.

Q. You saw on the letters Nos. 7, 8, and 13, round signatures on their tops ; can you say whose signatures they are ?

A. The signatures on the tops of the letters Nos. 7 and 8 are like Baboo Joykissen's signature, but whether the Baboo signed them or not I cannot say. The letter No. 13 bears no round signature, and those at the tops of the letters Nos. 14 and 15 are Baboo Joykissen's signatures.

Q. The two letters marked E bear also round signatures; can you say whose signatures are they ?

A. They are like the other signatures; but as they are written in blue ink I entertain some doubts about them.

Q. You have deposed these initials are Joykissen Baboo's; can you say exactly whether they are his, and whether he puts his initials in that way or not ?

A. Joykissen Baboo puts his initials in the like manner.

Q. What do you think of signatures that are not in blue ink ?

A. I think them to be the Baboo's signatures

Q. Did you ever receive letters signed by Joykissen Baboo ?

A. I received two pieces of Fusul Char signed by the Baboo.

Q. Did you deliver the 8 letters contained in the file marked S to the Darogah of Doomjoor ?

A. Looking at the letters said.—These were delivered to the Darogah at my house at Kidderpore, when he went there with the Kidderpore Darogah on Monday last.

Q. Look at the letters from Nos. 1 to 8, and say in whose handwriting they are.

A. In whose handwriting the letter No. 137 is I cannot say. (Then, looking at the letters No., 2, 3, 4, 5, 6, and 8 respectively, said) They are in the handwriting of Isser Chunder Mookerjee. They were written to me when I stood as security of Gomastah. I replied by letter only to 1 or 2 letters, and the rest I personally explained to the Baboo and his Dewan, Isser Chunder Mookerjee. At the Baboo's orders those letters were written. I do not recognize Nobo Kristo Roy's, Sree Mont Roy's, and Doorga Prosaud Mittre's handwritings. I only know Isser Chunder Mookerjee's writing.

Questioned by the defendant's Counsel stated.—I was written to, on account of my having stood as security for Ram Comar Chatterjee and Bycunt Nauth Sircar, Gomastahs of Kristopore and Aklokee.

Being questioned replied. The above security being in my name and in my wife's name, the defendant Baboo brought a suit against us, which was decreed exparte. On the execution

of that decree, my landed property being attached, my wife laid her claim before the Moonsiff, who ordered us to appeal the case, and accordingly an appeal has been preferred, but the case is still pending. Besides, I have obtained a decree in an Act 4 case which the Sessions Court has confirmed. For the reversion of that order, the defendant's son Hurro Mohun Baboo had brought a suit against me in the Sudder Ameen's Court at Hooghly, which suit is still pending. I did not bring any Fouzdaree complaint either against the Baboo or his Amlahs in this Court; I only brought the above Act 4 case.

Being questioned said.—I now live at Kidderpore, and do not serve the Baboo. On Monday last, the Doomjoor Darogah having gone to me for the letters bearing Joykissen Baboo's signatures, I delivered those I had with me, and on the Darogah's taking a Muchulka from me for attesting the same I am come.

Being questioned stated.—I do not knew how the Darogah came to know that the letters were in my possession; I did not send him any notice of it.

Beimg questioned stated.—I never knew Juddoo, and never spoke anything to him.

Being questioned replied.—I did not first hear of this suit on Monday, but before that.

Being questioned stated:—I heard from rumour that Juddoo filed the letters bearing the Baboo's signature.

Being questioned replied.—The person from whom I heard was not told of the letters being in my possession by me, and of their production before the Court with a view to carry on this suit.

Being questioned said.—How the Darogah came to know of the letters being with me I do not know.

Being questioned said.—I once brought a complaint against Ram Comar Chatterjee, charging him with thefts of my shawl and watch, &c., which was dismissed. Ram Comar Chatterjee is my maternal uncle's son, and he is the servant of Joykissen Baboo. I was his security.

Q. Whose signatures are those on the letters in the file marked S., which letters you have stated to be in the handwriting of Isser Chunder Mookerjee?

A. On the six letters written by Isser Chunder Mookerjee are the signatures of the above Mookerjee.

Q. Was there any Amlah of Joykissen Baboo by name Koylash Ghuttuck?

A. Yes, there was. I knew him, but do not recognize his handwriting.

Being questioned by the Court said.—Long before this suit between myself and the Baboo, the letters were come to my possession.

Question by the Court.—Did you ever see a letter copy book in Joykissen Baboo's record?

A. No, I did not see.

V

ROBOCARRY FOUZDARRY ADAWLUT.

Zillah Howrah, dated 1st December, 1858.

PRESENT:

BABOO NILMONEY MITTRE, DEPUTY MAGISTRATE,

With the full power of Magistrate.

Yesterday, the Magistrate of this Zillah having called me to his Court to give my replies by Robocarry on the points written in English on a separate paper accompanying this, I have the honor to state that on the last Ashin before the Doorga Poojah Holiday (the exact date I do not recollect), one day in the morning, when I was sitting in my Bhobanipore house bytukhanah, Baboo Peary Loll Banerjee first came there and saw me, and talked to me on different things. Shortly after, Juddoonauth Moozomdar, whom I never saw before that day and never knew before, came also. I asked the Banerjee Baboo who he was, to which he answered, "this man's name is Juddoonauth Moo-

zomdar. He is Baboo Joykissen's karpurdaz, and is a co-defendant with him in the suit pending before the Howrah Magistrate." So saying he wished me to hear what the Moozomdar had to say. On this, the Moozomdar began to relate that "in accordance with the orders of Joykissen Baboo, I arrested the plaintiff, &c. I am in no way guilty in anything, and I have written orders of the Baboo on those subjects; if you relieve me from danger I can disclose everything, and I am prepared to file the letters to the Court." So saying he brought a bundle of letters wrapt up in a rag before me, and wanted to open and show them to me; but I said, "I don't want to hear and see anything here; come with me to the Magistrate." Accordingly, myself, Peary Loll Baboo, and the Moozomdar, with the letters, at first went about looking for the Magistrate in Calcutta, to show him the letters; but not being able to see him anywhere in town, I first waited on him in his house at Howrah, and talked to him everything, and on being directed by him I introduced the Moozomdar to him in the room below his private residence, with the bundle of letters, and then I brought Peary Loll Banerjee before him, and opened the above letters before the Magistrate. I know Peary Baboo from four or five years. He visits me now and then in my private house at Bhobanipore. Peary Baboo saw me at Bhobanipore two or three times after the above letters came to the possession of the Magistrate, and talked to me on many things, and he may have also talked on the subject of Baboo Joykissen's case, but I don't recollect that, and neither was there any necessity for recollecting it. The several times Peary Baboo visited me after the letters were produced, I think he was accompanied by the Moozomdar once or twice. Sometimes Peary Baboo used to come alone. It is also within my recollection that Juddoo came to me once or twice unaccompanied by anybody; whenever he saw me, he would ask me anxiously if he were to get himself acquitted. It is also in my recollection that Juddoo Moozomdar mentioned to me that Joykissen offered him some thousands of Rupees if he acted according to his wishes, of which circumstance I have already informed the Magistrate. In fact, from the foregoing circumstan-

ces, it is evident that it is Peary Baboo's hearty wish that Joykissen be punished. But he said nothing before me as to any false case or evil advice being got up through the Moozomdar. These particulars are detailed here for the information of the Magistrate. It is

ORDERED,

that this Robocarry be forwarded to the Magistrate of Howrah with his original papers for his information.

(Signed) NILMONEY MITTRE.
Deputy Magistrate.

W

No. 55.

FROM K. H. STEPHENSON, ESQ.
Deputy Magistrate of 24 Pergunnahs,

TO J. J. GREY, ESQ.
Magistrate of Howrah.

Dated Allipore, the 2nd December, 1858.

SIR,

With reference to the 2nd and 3rd Paragraphs, and the queries contained in the 7th Paragraph of your letter No. 817 of yesterday's date to the address of the Magistrate of 24 Pergunnahs, I beg to state, 1st. That when I was at Serampore I knew there existed great enmity between Baboo Joykissen Mookerjee and Baboo Peary Loll Banerjee, both of Otterparrah. The latter hated and abused the former beyond measure; he expressed it more than once in my presence. I must say that Peary Loll Banerjee showed more animus (and publicly too) towards Joykissen than Joykissen did towards Peary Loll. Baboo Peary Loll Banerjee brought several charges against Joykissen, but he could not get any of them proved. Why or wherefore they were so much against each other I could not exactly ascertain.

2. With regard to the second query, I have to state that I have nothing to say in favor or against Baboo Peary Loll Banerjee.

I have the honor to be,
Sir,
Your most obedient servant,

(Signed) K. H. STEPHEN,
Deputy Magistrate.

X

English Abstract of the 2nd defence submitted by Joykissen Mookerjee in the case of Muddun Dey, the husband of Keenee Dossee.

After the evidence had been closed on both sides, and this case was ripe for decision, a new phase arose from the production by the defendant Judoonauth Moozomdar, my former Gomastah, who is accused of having been immediately active in directing the kidnapping and carrying off of the Prosecutor Muddun Dey, of a bundle of papers, purporting to be letters in the handwriting of persons in my employ, and to bear the private mark used by me as a signature in correspondence relating to my Zemindaree affairs. From this bundle have been selected letters, fourteen in number, which, if genuine, could bring home to me privity in the attempted plunder of Muddun Dey's property, and the capture and carrying off of Muddun Dey himself.

Juddoo Moozomdar has produced these letters in the firm hope that, if he can procure the conviction of a wealthy Zemindar on a charge of oppression, it will be considered as an act so meritorious as to secure for him both immunity and promotion.

The first thing which strikes one is, why, if such were his motives and the letters genuine, in which case they must have been in his possession from the very commencement of the case, he did not produce them long ago? It is nearly eight months since

he was first put on his trial, and he was found guilty and sentenced to six months' imprisonment with labor and a fine; but that sentence being reversed, owing to a technical defect in the proceedings, he was again placed on trial. He has throughout protested his innocence, and has examined no less than seven witnesses to prove an Alibi on the occasion of the alleged capture of Muddun Dey; why should he not have produced these letters when first charged?—why not when he was first found guilty?—why, after such a long delay, produce them at all, without waiting to try the effect of the defence which he had taken, and after it had become no longer possible to produce them without standing self-convicted of subornation of perjury most gross, as well from its extent, as from the deliberation with which it was committed, and the obstinacy shown in persisting in it?

That the man has a motive which he does not disclose is evident, from the eagerness which he has shown since the production of these letters to procure the conviction of me, who have been his master for twenty years.

The manner also in which the letters were produced is not without significance. They did not reach the light by the spontaneous act of Juddoo himself in open Court, and in the presence of myself and my Counsel; but were produced by him, in concert with others, in secret, and behind my back.

All this points suspicion to a conspiracy to ruin me, got up with an elaborate industry which required some considerable time for the completion of its operations, and into which Juddoo has been drawn by the combined influence of intimidation and promise of reward.

All that has come out in evidence connected with these letters tends to confirm this suspicion.

It is made abundantly plain that the prime mover in the matter has been Baboo Peary Mohun or Peary Loll Banerjee, for he has used both names at different times a near neighbour of mine, at Ooterparah, and as he avows himself, and the statement of Mr. Stephens, late Deputy Magistrate of Serampore, shows, an inveterate enemy of mine, owing to the support which I gave to a

widow, named Manoka Debee, in getting the probate of an alleged Will of her husband obtained by Peary Loll Banerjee set aside by the Sudder Dewanny Adawlut.

It is shown by the statement of Baboo Nilmoney Mittre, Deputy Magistrate of Howrah, that this man, Baboo Peary Mohun, though he had the hardihood to deny upon oath that he had seen the letters before they were produced in Court, or that he had held any communication with Juddoo before they were filed, went to Nilmoney Mittre on the occasion when Juddoo produced the letters to the Deputy Magistrate, and had frequent subsequent communications with the Deputy Magistrate on the same subject. It is shown that Peary Loll was again present when the letters were produced by Juddoo to the Magistrate himself, which fact also he had the effrontery to deny before that very Magistrate, calling down his rebuke for the falsehood. It is acknowledged that he went to Mr. Latour, the Sessions Judge of the 24 Pergunnahs, on the matter of the letters, and I have proved by evidence that Juddoo and Peary Loll had been frequently in consultation together just before the time when the letters were produced. The same Peary Loll has taken advantage of the fact of my having, according to the custom of wealthy Hindoos, when intending to give an entertainment at the festival of Doorgah Poojah, called at the house of his father, a near neighbour of mine, to ask him and other members of the family to be present at the entertainment given by myself, to detail a conversation which he alleges that I then held with him on the subject of these letters, and requested his assistance in keeping Juddoo out of the way.

I have examined a witness to prove that no such conversation passed, and Peary Loll's evidence on this point only serves to show his unscrupulous eagerness to furnish testimony against me. I beg also to call to the remembrance of the Court the demeanour of this witness while under examination, the glibness and self-possession with which he gave his evidence in chief contrasted with his confusion, prevarication, and unwillingness to answer while being cross-examined; and I further call

attention to the information given by Mr. Stephens, that Peary Loll had on former occasions brought several charges against me which he could not get proved.

Another witness, Kalinauth Mookerjee, has produced letters for the purposes of comparison, which are alleged to be in the handwriting of my head Naib, Isser Chunder Mookerjee, and two Char Chittahs said to bear my private mark. Char Chittahs granted by me always bear my full signature and seal, and never a private mark. This witness admitted on cross-examination that I hold an unsatisfied decree against him for money embezzled by one for whom he stood surety, and that there are other suits for land pending between us, and moreover that he had last year brought a charge against one of my Amlahs for stealing shawls, which had been dismissed. He denied on oath that he had brought any other charges in the criminal Courts against me or my Amlahs ; but I have filed authenticated copies of proceedings, which show that about three years ago he preferred a charge of stealing shawls against another of my Amlahs, which he also failed to establish ; and that he made a complaint against a third, which was likewise pronounced groundless. In one of the shawl stealing cases the Deputy Magistrate, Baboo Obhoy Churn Bose, was so much struck with the malice and falsehood of Kalinauth's proceedings, that he not only dismissed the charge, but directed that the complainant should be put on his defence for having made a false accusation. These proceedings were, however, dropped, owing to the Deputy Magistrate's leaving the 24 Pergunnahs.

Another witness brought to prove the handwriting of my Amlahs and my private mark was Mudoo Sudden Patra. This man admitted on cross-examination that he had been discharged from my service for embezzlement. This man was dismissed some eight years ago.

Another witness, Tarinee Churn Bose, was brought to identify certain letters purporting to bear my private mark, as having been taken out of a bundle in the house where his brother,

once a Gomastah in my service, lived; but he admitted that his was not the hand which picked out the letters from the bundle, and that he did not know previously of their existence in the bundle, and even his identification of them as being the same which were then produced as if from the bundle must be regarded, after so cursory a view as he professed to have had of them, as most untrustworthy. This witness was also examined as to the handwriting of the letters and my private mark thereon, but he denied all knowledge of either. Hulloodhur Bose himself denied all knowledge of the letters.

The remaining witnesses as to handwriting were my nephew, Hurryhur Mookerjee, and four of his principal Amlahs. The summoning of these witnesses had doubtless been suggested to the Court by Peary Loll Banerjee, or by the native Police Officers who have been so active throughout these proceedings, and who were well aware of the disputes which have for some time existed between my nephew and myself, and thought that through enmity these witnesses would be anxious to contribute to my conviction. But these witnesses have utterly failed to answer the expectation of those through whose instrumentality they were called, and have not deposed to their belief that any one of the letters filed in this cause was written by my Amlahs or signed by me.

I ask, with the utmost confidence as to the reply which must be given, whether this be such evidence as can be held to establish the genuineness of letters produced under circumstances than which none ever existed more suspicious, by hands than which none would be conceived more foul?

The episode of the alleged attempt on my part to bribe Juddoo Moozomdar I treat with the contempt which it deserves. The scene of bribery and corruption was too palpably got up to impose upon any one, the different actors being allowed to escape, and no attempt made to procure spectators for the promised second act, to which the bodily presence of the five thousand rupees would have given a reality, which

does not attach to nightly whisperings. But the best test of the fraud of the attempted imposition is afforded by the impossibility of conceiving that I could have desired the success of the attempt which I am represented to have made. The letters were already in the possession of the Magistrate, and nothing could be devised so likely to contribute to my conviction as the disappearance of Juddoo pending the enquiry. Indeed, I feel very thankful that the lying spirit which has actuated my accusers did not put it into Juddoo's head to abscond of his own accord. I can well imagine the difficulty which I should then have had to persuade the Court that he was not kept out of the way by my machinations: I have already suffered under a similar suspicion in the instance of Mohesh Banerjee. The same test which I have here suggested is equally applicable in the case of conversation which I am alleged to have held with Peary Loll, when I called at his house, as to keeping Juddoo out of the way.

On the contents of the letters themselves I have little to say. They are artfully framed, and contain many allusions to what was actually going on about the time at which they purport respectively to have been written; but this, though it gives them an air of authenticity, really does not entitle them to any additional credit, as Juddoo having been in my employ and cognizant of all that was going on, could supply these allusions with the greatest ease. One thing, however, I may remark—that there would have been not a little audacity in dispatching such numerous letters containing the most open and very unnecessarily open disclosures of the unlawful proceedings to which they purport to relate. In especial, letter No., 1489, dated 10 Falgoon, contains the following passage. "You must enquire also and write to me always what Muddun Dey's men are about, in consequence of his being in confinement." What occasion was there to tempt detection by stating the fact of Muddun being in confinement,—a fact, if the case attempted to be made against me were true, perfectly well known beforehand by the person to whom the letter was addressed?

There remains only to support the case against me on these letters, the comparison of handwriting, which the Magistrate himself may perhaps feel himself competent to make. Should he do so, I would pray him to bear in mind the perfection to which the art of forgery has been carried by those who practice it as a regular trade in this country. I need only instance the great case of forgery of the Company's papers, when, on the trial of Rajkissore Dutt, Messrs. J. Prinsep, Dorin, Oakes, and Oxborough, all declared that the signatures were their own, which were afterwards proved in Court to be forgeries by Dwarkinauth Mittre, who proved the truth of his statements by forging those gentlemen's names in open Court, and in their presence.

For the reasons above given I think it would be impossible that the Court, upon the evidence for the prosecution, even if it stood alone, could pronounce the letters produced by Juddoo to be genuine ; but as my character is concerned, I h ve thought it best not to leave the case merely upon the weakness of the proofs brought against me.

I have subpœnaed all those who are still alive of my Amlahs in whose handwriting the letters produced by Juddoo are said to be. I have had great pains in doing so, as these witnesses have never with one exception given evidence in Court on any previous occasion. Their doing so now has been most grievous to them, and I regard it as a very strong proof of attachment to me that they have come forward. It was no doubt the supposition that the evidence of these witnesses could not be made available to me which induced the conspirators to forge the letters in imitation of their handwriting, rather than that of those who are known to be my letter writers. It is necessary to remark this; as, otherwise, an argument in favor of the genuineness of the letters produced by Juddoo might be attempted by putting the question,—Why, if he were procuring the forgery of letters, did not he cause to be imitated the hands of those who are in the habit of writing my letters, and who must have been well known to

me, who have been in my service as long as he has? The truth is that he calculated upon leaving me without any witnesses to deny his forgeries.

He has been mistaken. They one and all have emphatically denied on oath that they are the writers of the letters ascribed to them, and have stated also their disbelief in the genuineness of the private mark attributed to me. They have also sworn that they are not employed by me to write my letters. Indeed, to be satisfied of this, it is only necessary to observe the situations which they hold under me. The one is my Sudder Naib, whose duty it is to superintend my affairs generally, and transact my monetary business. Another is my Sheristadar, whose business it is to preside over the Amlahs of the Sudder Cutcherry, to hear and adjudicate the complaints of ryots, and to make settlements with them. A third is my Peshkar, whose duty it is to superintend the collections and the business of the Dehees in the Mofussil, and to examine the annual accounts of the Naibs and Gomastahs in the Mofusil, and report to me thereon. A fourth is the Khazanchee of the Sudder Office, whose duties are to keep the cash accounts, to receive monies, and make payments, of which those for Government and Putney alone amount to several lakhs yearly.

The fifth is my head Mooktear, who is responsible for the management of upwards of 200 suits,—the average number always pending in the several Courts in different districts. They form in short the superior Amlah of an establishment whose Khas collections amount to upwards of 3 lakhs of rupees per annum, being the largest next to those of the Rajah of Burdwan in the districts of Hooghly and Burdwan. Government finds it necessary to appoint a separate Deputy Collector for each collection of Khas Mehals, to the extent of 50,000 rupees. The Magistrate can therefore judge whether the heads of an office which transacts six times the business of a Deputy Collector, have time to employ in the work of letter writers. It might perhaps be urged that upon a busi-

ness of such especial importance as the capture and imprisonment of a refractory ryot, special hands might be employed to conduct the correspondence; but that argument will not hold good here, as Juddoo doubtless, with a view to throw dust in the eyes of the Court, and relying upon the impression in the mind of the Court, that he would not have unneccessarily multiplied forgeries (though the fact is that the professional forgers of this country throw off a hundred forged letters in any one simulated hand with almost the same readiness as one) has thought fit to produce in addition to those letters, which appear to have a bearing upon this case, a large bundle of letters on indifferent and trivial subjects, purporting to be written by the same hands. In this he has overdone the thing very much, as he is but one of upwards of two hundred Gomastahs in my service. If I am to be suffered to carry on with each of the Gomastahs correspondence half so voluminous as that which Juddoo has produced, an establishment on the scale of the Bengal Secretariat would hardly suffice to carry it on.

I must here remark that the letters which Juddoo professes to produce have not even that degree of credit which is supposed to attach to documents which come out of the proper custody. I have shown by evidence that Juddoo was released from his position as Gomastah of Bulluttee in the month of Chout last, and that he then gave over all the documents belonging his Cutcherry, according to a list drawn up under his own directions by the Naib Gomastáh, and signed by himself on every sheet and which has been put in. In this list will be found an item "Hujooree letters, 38," that is to say, letters written by me and my son Hurro Mohun. He could not therefore properly have in his custody any letters addressed to him by us. It might indeed be argued that he would not improbably, though handing over all the rest, withhold those which had a direct tendency to implicate him in the criminal act of kidnappiug Mudduff Dey. But the same argument could not apply to the numerous letters on indifferent subjects which he has produced, and the inference is very strong that these which, if genuine, he could

not have had any object in withholding, nor allowed by his successor to retain, are forgeries.

I have in order more to rebut the imputation that I am keeping anything back than [redacted] direct evidence in my favor, filed the letter despatch books in which are entered all the letters sent by myself or my son Hurro Mohun, whose signature I understand is made to appear upon many of the letters in Juddoo's bundle during the period over which Juddoo's forgeries purport to extend. The Court will find by reference that the entries in this despatch book do not in any one instance coincide with the numbers and dates of those of the forged letters, of which copies have been furnished to me by the Court. I have had no opportunity of ascertaining the numbers or dates of the numerous other letters produced by Juddoo and filed in the cause, but I have little doubt that if the Court will compare them with the entries in the despatch book, it will find the same discrepancy which exists with respect to those which I have been able to compare with the book.

Throughout this, which I may call the second stage of this protracted case, as well as that which preceded it, the Court and its officers have most properly, considering the relative situations of the prosecutor and the defendant, lent every assistance to the former, insomuch that the case has assumed the appearance rather of a State trial than of a common prosecution, and the Court must therefore feel convinced that it has now before it all the evidence which could possibly be adduced in support of the letters produced by Juddoo. Such being the case I cannot conceive that the Court, observing when and how these letters have been produced, by a man on whom the production necessarily fixes one of the two crimes, that of subornation of perjury, or that of forgery, in concert with my avowed enemy, who has on the present occasion committed gross and manifest perjury in the witness box; the weak support that they have received from persons engaged in litigation with me, discharged for dishonesty from my employ; the failure of so many witnesses cited by the prosecution to speak in favor of their

genuineness, and the direct denial on oath of their authenticity, by the highly respectable witnesses by whom it is alleged that they were written, will unhesitatingly pronounce them to be forgeries. And I rejoice to think that the wicked machination having been thus exposed, will lead to confirm the Court in the verdict of acquittal which I was expecting with the greatest confidence on the day when these letters were first brought to my notice. My Counsel in the course of their argument will briny to the notice of the Court other points not touched upon in this paper.

Y

The final Judgement of the Magistrate, Mr. J. J. Grey.

OUTLINE OF CASE.

The Prosecutor, Muddun Dey, alleges that he was seized and carried off from Bulluttee (in which village is his residence) on or about the 15th February of this year (5th Falgoon); that he was taken to Ooterparah, to the house of the Defendant, the well known Zemindar Baboo Joykissen Mookerjee; that he was kept there till the middle of the night of the same date, when he was sent in custody from Ooterparah to Dwarbassiny by Baboo Bejoykissen the brother, and Isser Chunder Mookerjee, the Sudder Dewan, of the Defendant Baboo Joykissen; that he was then taken to various places, of which it is not necessary to speak in detail; that he was finally located at Goayee in the Hooghly District, with one Chota Mohesh Banerjee, said to be the Defendant's Gomastah of the village of Jair, but having his home at Goayee, which is near to Jair. He states that he was placed with this Mohesh on the 22nd Choyet, and that he was kept there under illegal duress till the 13th of Joist (25th May), when he was released by my Police Mohurir of Thannah Doomjoor, having thus been in illegal duress altogether for three months and ten days.

Such is a rough, but succinct and sufficiently clear statement of the foundation of this case, as apparent on the Prose-

cutor's deposition, divested of points of detail, of which some may be noticed subsequently; and others are immaterial to the case as it *now stands* for final decision.

FORMER PROCEEDINGS IN THIS CASE.

The case came up originally as against *seven* defendants, of whom three were released, and four (as noted)*, were punished by me. They appealed, and the case was remanded to me for re-investigation by the Judge, on the 26th May. My former decision and the Judge's order on appeal are both filed with the case; and have also been published in the Nizamut Reports.† I need not, therefore, say much about either of them here, and I shall only make such summary remarks as I consider to be desirable inasmuch as they elucidate the *present* case, or are connected with points which have arisen *subsequent* to the passing of the orders (above alluded to) of this and the Session's Court.

The four prisoners were sentenced by me for the plunder of the Prosecutor's property, under the circumstances stated in my decision. The Prosecutor, Muddun Dey, was then not forth coming, and it was in evidence that he had been forcibly carried away shortly after the plunder for which the defendants were punished by me.

I pursued a course similar to that adopted by me in a previous heavy case of kidnapping. In short, I released the whole seven defendants conditionally on the charge of kidnapping only; I punished four of them, for the plunder of the missing man's shop; leaving them all, and the Zemindar himself (Baboo Joykissen Mookerjee, the present Defendant), liable to be again put on their trial if the missing man was found; in which case I expressly recorded I should *re-open the case* against the *whole of* the Defendants.

Both in this case, and in the case of kidnapping to which I have cursorily alluded, the Judge made some rather severe remarks against my proceedings, of which I will now only

* 1 Juldoo Muzoondar, 2 Setul Singh, 3 Ruttun Ragdee and 4 Juttun Pyke.

† For Second Quarter of 1858, page 283.

venture to say, generally, that these proceedings have not been unattended with success insofar, as the missing man has been produced, a regular prosecution has been instituted, and followed up and resulted in conviction; such being, I believe, most unusual in this country.

In the case now decided, I would only so far go into detail as to say that I venture to think the immediately decisive proceedings suggested by the Judge, on the grounds of the deposition of the missing man's wife, would not have secured the desired result. The Prosecutor himself states that he was *not* at Ooterparah, but had been removed some days before I ever heard of his abduction. Then the Prosecutrix merely conjectured that her husband was at Ooterparah, a conjecture which the husband's (present Prosecutor's) deposition shows to have been *erroneous*. I cannot but think that a search of the house—even if I could have made it with sufficient promptness (I was then on my Mofussil Tour)—would hardly have produced the missing man, and would probably have led to his further removal.

I released conditionally, I quietly kept enquiry on foot, and whenever that enquiry resulted in the missing man's appearance, I intended, as I had expressly recorded, to put all the Defendants, including the Zemindar, on trial on the separate charge.

Whether I acted rightly or wrongly, it is worthy of note that on the very day the order was being passed on Appeal (and when, of course, I could not know what was being decided in the Upper Court), the missing man, Muddun Dey, was giving his deposition before me, having been previously released by my Police.

The missing man having appeared, the Defendants, including the Zemindar, were put on their trial, on the charge of kidnapping and illegal duress, agreeably to the order of the Session's Court, and in accordance with my intention previously recorded.

And this is the case now under review.

The case has two "phases" or "stages."

The first was closed by me early in October, four months only after the Defendant was put on his trial.

The Prosecutor's wife and witnesses had, for the most part, given their depositions in chief in the case, previously finished, and had to be *separately recalled*, and subjected to the most tedious cross-examination, subsequently to the Prosecutor's appearance.* They and the Prosecutor tell a story to the effect that after the "loot" of the Prosecutor's property, a sort of compromise was effected between him and the Defendant Juddoo, the Gomastah, that on, or about the day and hour named by the Prosecutor, this Juddoo called him from his house by one Gobind Paul (witness), that Muddun went out, was seized in a place consistently indicated, and carried away by several men, of whom some were with Muddun, and others, including the Defendant Juddoo, were following at no great distance. This was on or about the 15th February or 5 Falgoon and nothing more was heard of Muddun till a letter was received by the Doomjoor Darogah, purporting to be written by Muddun to some of his friends at Bulluttee, and notifying his place of confinement to be as stated above. This letter was sent to me on the 22nd May, with an English letter from the Darogah of Doomjoor, which, with my order thereon, is filed with the case. Agreeably to that order, Muddun was released by the Doomjoor Mohurrir from the house of Mohesh at Goayee, on the 25th May, and sent in to me on the following day, when he gave his deposition. The Defendant Baboo Joy-Kissen Mookerjee was put on his trial and examined on the 2nd June.

* These are the principal witnesses examined. The 3 last are most respectable men, being the masters and pundit of the Govt. School.

Kenee Dassee, Muddun Dey, Prem Chand, Gobind Paul, Gopaul Paul, Gora Chand Golla, Doorga Churn Mookerjee, Becharam Chatterjee, and Kartick Sircar.

No. 1295, 1280, 1136.—(Issur Mookerjee.)

No. 1222, 1197.—(Issur Sircar.) The above bear directly on this case.

No. 1352.—bears directly on case. Translations of these letters are filed with the record, in my own handwriting, and I have been at the greatest care to mark those bearing on the case. The letters are, for the most part, put into separate lettered Nuthees, according to their alleged writers.

The Doomjoor Darogah subsequently proceeded to Jair, to obtain proof whether this Mohesh was the Gomastah at that place, as alleged, of the principal Defendant, and, on the 14th June, he produced four witnesses,✕ and some "Dakhilas" (24 in number, exhibit marked ◎ "J. J. G. M.") all of which bear date about the time of the abduction of Muddun; and purport to be signed by Mohesh as Gomastah, the fact of his being Gomastah being sworn to by the above 4 witnesses, and such being the purport of the joint report of the Doomjoor and Pandooah (Hooghly) Darogahs, who have also been examined and cross-examined.

The first "phase" of the case, then, stood thus.—

It was proved, I. That the Prosecutor was carried away forcibly on the summons of defendant Juddoo; and that the Defendant Juddoo, and other defendants were present.

I. Witnesses noted above.

It was proved, II. That the Prosecutor was taken to the house of Mohesh at Goayee, (the said Mohesh being the Gomastah of the Defendant Baboo Joykissen,) and he thence released by my Police of Thannah Doomjoor.

II. Muddun's deposition; deposition of Doomjoor Darogah; deposition of Doomjoor Mohurrir; deposition of Pandooah Darogah.

It was patent III. on the record that recognizances to keep the peace had previously been taken from the defendants at the instance of Muddun.

III Vide separate Nuthee, marked A, extending over several weeks.

I say that these points were proved, because I think that with reference to the *extreme* difficulty to obtain any *proof at all* against this powerful defendant, such substantial proof as had been adduced was, notwithstanding some discrepancies sufficient to induce a violent presumption that the Zemindar (Defendant) was concerned in the abduction and duress of the Prosecutor.

It was nothing more than a violent presumption, because the Prosecutor expressly stated that from the date of his capture

to that of his release, he had not seen or spoken to the Zemindar.*

No doubt discrepancies exist. They would even in any *ordinary* case which, this is not.

With reference to the letters produced by Juddoo, (the basis of the 2nd "stage" of this case) I do not feel called upon to say whether the violent presumption above noted would have resulted in conviction. It is quite sufficient for me to say that, if discrepancies *up to a certain point* should invalidate such a case as the present one, then this, or indeed any similarly powerful Zemindar, would have a perfect immunity from legal punishment.

On the 11th October, when the case came up for hearing, (and, indeed, for final decision) in the Defendant's presence, certain letters (*some* 150 *in number*) were produced in Court by me, which had been a few days previously filed with me by the Defendant Juddoo, who was brought to my house by Baboo Nilmoney Mittre, the Deputy Magistrate of this Court, and Baboo Peary Lall Banerjee, Moonsiff of Paturghatta; the Deputy Magistrate having told me before that Juddoo was anxious to save himself from further imprisonment by "making a clean breast of it," and producing the letters in which Muddun's seizure had been ordered by the Defendant Joykissen. This information was (as appears from the Deputy Magistrate's Rubakari) given him at interviews which Juddoo the Defendant, and Peary Lall, the witness, had held with him (Deputy Magistrate.)

Of these letters many are wholly unconnected with this case. Many too, which directly bear on it, are signed by Bejoykissen the brother, or Hurromohun, the son of the Defendant Joykissen, and to put *these* men on their separate examination would be to re-open the case de novo, with all its tedious cross-examination, and to give rise to proceedings which would terminate probably

* An admission which would never have been made, if, as alleged by the Zemindar the whole story is a false one got up by conspirators, of whom this Muddun is one!!

in 1860, or 1861. Beyond the general remark that very many of these letters signed by this son and brother of the Defendant Joykissen do bear directly on this abduction and illegal duress, and that, if genuine, a very strong presumption exists that Joykissen himself must have been aware of their contents, I do not think it necessary to take any notice of *these* letters *not* purporting to be signed by the Defendant Joykissen *himself*.

But several letters bear a signature or mark purporting to be that of the Defendant Joykissen, and of these, some are unconnected with this case, and those noted* bear, more or less, upon it, and, if proved to be genuine, must convict the Defendant of being guilty in the matter of the abduction and illegal duress of the Prosecutor Muddun Dey.

For the purposes of this case, I am bound to consider those letters only which I have noted.

The production of these letters, as it were, brought on a *new case entirely*. I could hardly do otherwise than go into the question of their genuineness, unless I acquitted at once, or committed the case to the Sessions; and it has been with the very greatest inconvenience, and to the serious detriment (not to say

(Nuthee marked P)

* No. 1252 of 29th Posh, 1264 (important)

No 464 of Maugh 25, 1264. This purports to be written by Nobokisto Roy.

No. 1295 of 4th Maugh (important)

No. 1312 of Maugh 5th, (important)

No. 1436 of 21st Maugh.—The above purport to be written by Doorgapersaud Mittre.

No. 1928 of 28th Falgoon.—Important, as strictly corroborating the evidence of a hostile witness (alleged writer himself) as to his residence at the time.

The above purports to be written by Sreemonth Rai.—Numerous letters from the Mofussil have been produced by the Darogah of all dates of which some are in writing *exactly similar to this*.

No 1489 of 10th Falgoon, purporting to be written by Sreemontho Roy and Doorgapersaud Mittre, and directed by Issur Sircar.—Most important, as corroborating in its subject matter, the evidence of these hostile witnesses as to their residence at the time, the very men whose writing the forger is said to have imitated, in the hope that they would not be called. This corroboration therefore is *palpably*

temporary entire stoppage) of my other office work, that I have got through the case even as quickly or as completely as I have done. The letters noted above bear a signature or circular twisted mark, and some such mark, as is proved in evidence* and is admitted by the Baboo and his witnesses, the defendant *does put* to his letters. The letters purport to be written by the persons whose names I have given above, and who are admitted by the Defendant, and who themselves, deposed on oath, to have been and to be the Amlah of the Defendant.

The whole question, of course, is whether the handwriting of the letters is really that of the persons whose writing it is said to be by the defendant Juddoo, and whether the round mark is really that of the Defendant the Baboo Joykissen. I believe these letters to be written by the Baboo's Amlah, and have been signed by the Baboo himself, and, beyond this belief inferential from the absolutely *enormous* prima facie probability of the letters *being genuine*, and *not being forged*, I consider that their genuineness is sufficiently proved, and that the letters so *proved*, taken conjointly with the violent presumption in which the first stage of the case resulted, afford sufficient proof to necessitate the conviction of the Defendant.

* The letters produced by Darogah from Mofussil.

Also vide the evidence of most of the Defendant's witnesses examined in November, and the re-examination of the Defendant himself.

I would here dismiss, once for all, the absurdity of the plea put in that these round signatures are smaller than the Defendant's, and contain fewer "twists.' —Why should a forger, in a case of conspiracy like this, make the signature smaller and with fewer twists and unlike the genuine signature, when he could just as easily have made it like, of the same size, and with the *same* number of twists, The alleged "forger" has written more than a hundred letters by different hands. Would such a man make a mere round signature *unlike* the genuine one? Whether is *this* the more credible supposition, or that the Defendant may have adopted a different kind of signature, *i. e.* a signature containing more or less "twists," according as letters related to legal or illegal subjects, according as they were or were not intended to see the light? This variation in signature was very likely purposely designed. In short, why should a regular forger in a conspiracy to work another man's ruin, make a simple mark unlike that of which it was a forgery, when it was just as easy to make it *like*?

Certainly the prima facie probabilities, as deducible from the letters themselves, are all in favor of their genuineness.

If forged, why should the Defendant put in 150 letters and papers, written by seven or eight hands, when fifteen or even one would have sufficed? If forged, is it credible that such a mass of letters would be produced *having nothing to do with this case*, and that of all those which *do* bear on this case there is not *one* which, by any direct order, or *palpable* instruction, must condemn the Baboo? Detection of forgery would be quite as easy on the numerous letters unconnected with this case, as it would be on the comparatively few letters bearing on it. Why should the defendant risk this detection for no reason and for no possible advantage to himself?

So again: the letters said to be forged long after the Prosecutor's deposition, do not contain one single point which would possibly have been introduced to strengthen any particular statement in the whole of the evidence for the Prosecution. Again, many of the letters are in the handwriting of an Amlah, dead long before the letters were filed. Forgery in this case must have been resorted to as a pastime!! and detection and punishment courted "for the mere excitement of the thing." Again, though not evidence, I cannot but admit that I was and am influenced by the re-examination (duly recorded) of the Defendant, and the course he pursued on the production of letters. I would ask any one to read that re-examination, and say whether it is such as a man would give when seeing, for the first time, letters which he bona fide knew were not written by his order? So again, I allow that the Defendant's demeanour, and the fact of his requiring *time to consult with his Counsel* before saying whether he would admit or deny the genuineness of the letters, weigh with me pro tanto only of course in coming to the conclusion that the letters are *not* forged. Why again should forgeries be made of the writing of numerous people, when that of one would quite have sufficed? Why should the majority of the letters *not* purport to be signed by the Defendant, but by his relatives, who are not even before the Court at all?

I could go on with numerous other points on which the *prima facie probabilities* are all violently in favor of the genuineness of the letters, and against their being forged; but they are *so* violent and *so* numerous as positively to *obtrude* themselves in every direction on one's attention.

Then, as to *proving these letters.*—Here was a heavy case, and one of the most intricate and difficult kinds of evidence to be carried on. Amidst much other work, I have, to my own mind, satisfactorily *proved,*—quite independently of the above prima facie consideration, though with much difficulty, and after serious interruption to my official duties—that these letters were really written by the Amlah whom they purport to be written by.

Under the present English law, and under our evidence law (Act II. 1855) the writing may be compared with any *undisputed* writing of the party to whom it is ascribed.—Now, as regards the letters purporting to be written by *two* of the Amlah, viz., Nobokisto Roy and Doorgapersaud Mitter, the most conclusive proof on *comparison of handwriting* has been made. Various papers are filed in this very Nuthee by the Defendant Joykissen *himself*, or his agents acting then in his behalf, or by the defendant Juddoo, before the production by him of these letters. Some 25 or 30 of these are endorsed and signed by Nobokisto Roy, who is a stamp vendor, as well as the Defendant's treasurer. I have myself endorsed with my mark* some 10 or 12 of them, which are admitted by Nobokisto in his deposition on oath, to be endorsed in his handwriting. So again of the Petition of the 2nd June.† This is admitted by Doorgapersaud Mitter to be in his handwriting. These endorsements and the handwriting of the Petition agree *exactly* with the writing of Nobokisto and Doorgapersaud in these letters, which are alone amply sufficient to inculpate the Defendant. Now, I would ask whether this proof on comparison of Landwriting is not more complete than I could expect to obtain in such a case as this?—and I would

* Thus of J. J. G. M.

† This is marked on the back, and the lines are numbered.

also ask what further or better proof of handwriting?—always so difficult to *prove*?—I could gain in *any* case—unless witnesses were forthcoming who saw the letters written, or who would depose to a certain knowledge of the handwriting. If such witnesses exist, this is not the case in which I expect them to come forward and favor me with a statement of what they know!!!

As regards the letters purporting to be written by these two men, Nobokisto and Doorgapersaud, I think the comparison with numerous instances of undisputed writing, taken with due reference to the *impossibility* of getting other proof, is more than sufficient to counterbalance the *bare naked denial* which these men make of the writing of the letters. Under the circumstances, how *can* this bare denial—so easy to make, so difficult to *disprove*,—be met but by the comparison of handwriting as above?

Directly the witness go an inch beyond this naked denial, they fail.

Doorgapersaud says he *knows* the writing of the letters not to be his; because some of the writing is larger and wider than the rest—it varies in size—he always writes evenly, &c., &c. I show him the petition, which, he *cannot* avoid admitting (and therefore does admit) to be in his writing, and I number each line. I ask him whether he can dare to say that the variation in size of the writing of this petition is not very much greater than that of the writing of the letters. He has the effrontery to say that the writing in the petition is all of one size, but that some "seems" larger, and some "seems" smaller, according as the ink is thick or thin. I should be content to let this case fall to the ground, if the merest child should fail to see the variation in size of writing; by which variation, the witness states on oath that he knows the letters *not* to be in his handwriting, and which variation exists, in a far greater degree, in the *petition* which he admits *is* in his handwriting.

Another point must not be overlooked, as being essentially of that kind which is always regarded as deserving of the fullest attention, from appearing quite undesignedly.—The witness Sree-

month Roy, with a view to prove that such and such letters could not be in his handwriting, states that he was away till the middle of Falgoon, when, on his return, he went to Madhubpore. He goes on to say that the Defendant Joykissen was there at or about that time; that, besides himself, the Amlah with the Baboo were Doorgapersaud Mitter and Issur Chunder Sircar. Now the letter No. 1489 is dated the 10th Falgoon, and purports to be begun by Sreemonto Roy, finished by Doorgapersaud, and directed by Issur Sircar, the very men whom this witness names as being present at Madhubpore. It will be remarked that the letter was filed some weeks *before* this witness gave his evidence, and whether forged or genuine must have been put in entirely in ignorance that it would receive corroboration from the statement (made in reply to questions, not voluntarily) of this witness so long afterwards. So again, Issur Mookerjeee is *not* named by the Defendant's witnesses as being at Madhubpore; he is named by the Prosecutor as being at Ooterparah a day or two previous. Surely these coincidences, disclosed in the most undesigned way, should rather be ascribed to the inevitable accordance of a true story, than to the labored concoction of a band of conspirators.

The letters said to be written by Issur Mookerjee are only *proved* by comparison with certain letters filed by Kalinauth Mookerjee (witness), who states that the letters put in by him were sent to him by Issur Mookerjee some time ago; he deposes on oath that he *acted on those letters* by going to Issur Mookerjee himself in consequence of their receipt. The writing of these letters is exactly the same as that of the letters put in by Juddoo, as Issur Mookerjee's. Now, in all common sense, and agreeably to the *Civil* Law of England, these writings are quite made out "to the satisfaction of the Judge" (myself) to be Issur Mookerjee's. I cannot go further into this, as it is impossible to *prove* the letters to be Issur Mookerjee's under the terms of Section 48 of our evidence Act II of 1855. But still, these letters *are* proved to the mind of myself as Judge, just as much as Nobokisto's and Doorgapersaud's.

Be that as it may, the letters said to be written by *Nobokristo Roy* and *Doorgapersaud* are *proved* legally and fully and cannot, I think, be got over; and they are alone enough to inculpate the Defendant.

I would wish briefly to epitomize the case for the prosecution, and as the Defendant has said that he has met the evidence for the prosecution by the direct contradiction of other witnesses (a remark of which I painfully rather than cordially admit the truth), I think it will be very convenient, as giving a "bird's-eye view" of the case, to note the salient points of prosecution, and to put, opposite to each other, the defendant's plea in refutation, with my remarks thereon.

1*st Plea.*—Entirely false that prosecutor was *taken* away. Defendant was absent from Ooterparah.

1st Proved that Muddun Dey (Prosecutor) was taken away by order of Juddoo Gomastah, by certain men unknown, and not pretended to be recognized. Ample evidence, including the evidence of the respectable School masters the undisputed fact of Muddun's absence &c., &c.,

Hypothesis raised that Prosecutor may have voluntarily made a show of being carried away, in collusion with his fellow conspirators. Said that case is got up by Bholanauth Koondoo, another Zemindar. Great discrepancies in the evidence of the Prosecutor, and some of his witnesses.

REMARKS.

I have already said that certain discrepancies do exist, which are noted in the Defendant's written English defence. If these discrepancies are to render the Prosecutor's story unworthy of credit, it can be no use wasting time in prosecuting any such case, for in as many cases as may be instituted discrepancies will occur.

2nd *Plea*—The Prosecutor went to the house *voluntarily*, was there openly some days before his so called "release;" was, or is a partner in business with Mohesh, in whose house he was found. Mohesh is not Defendant's Gomastah has been dismissed.

2nd Proved that the Prosecutor was found in the house of a man at Gohaiye who was the Gomastah for Juver of the Defendant Baboo Joy-Kissen Mookerjee (evidence of four witnesses, Dakhilas of the period, papers filed by Defendant himself, and joint investigation and report of two respectable Darogahs &c.,

Remarks.

If the Prosecutor had gone voluntarily in consequence of collusion, he would take care not to be seen. The proof adduced that Mohesh is Gomastah.

Banshee Pundit, is Gomastah (witnesses documents filed, showing appointment of Banshee; showing that cases were going on between Mohesh and the Zemindar; showing that the ryots of that village are at enmity with the Zemindar.

The Prosecutor passed numerous Police Station, on the Road and gave no notice &c., &c.,

The proof that Mohesh is not Gomastah, and Banshee Pundit *is*, is not so credible as that produced by the Police to precisely the opposite effect. The witnesses who deposed to Mohesh being Gomastah were brought in at once, and the Dakhilas were produced.—The only proof of Mohesh's dismissal is the bare kubuyut of Banshee as the new Gomastah.—But between the release from Mohesh's house, and the investigation by the Police, some weeks elasped; in which interval what more easy than *really* to appoint Banshee, antedating his kubuyut or not, as the case may be. There is nothing (beyond the evidence of witnesses brought after a long time) to show that Mohes was *not* Gomastah at the time of the release. There is evidence documentary and parol to shew he *was* Gomastah at the time, and that he was Gomastah *previously* is admitted by the Defendant. If the case is got up by collusion, and the prosecutor went voluntarily to Jaier, the very last thing he would do, would be needlessly to name a road passing by many Police Stations. He could just as easily have named some secret road or byepath. If the taking him by such a road is really improbable,—and there can be no reason for introducing this improbability—its very existence is a strong argument for the truth of the story which contains it.

3rd. *Plea.*—Bare and naked denial by alleged writers of letters, production of dispatch books, shewing that numbers on letters produced do not correspond with numbers in books &c. &c.,

3rd. *Proved* That certain letters said to be signed by the Baboo are written by his Amlah; these letters directly inculpate the Defendant in this charge.—(Comparison of hand-

writing ten thousand violent "prima facie" arguments in genuineness of the letters; certain considerations as noted above; and course pursued by the Defendant himself on production of these letters.)

REMARKS.

It is impossible to prove negative, or disprove a bare denial, beyond doing what has been done; but I would confidently ask whether the proof adduced in support, or the flat denial given of the genuineness of the letters is most worthy of credit.

The letters produced by the Darogah, and attested by evidence, are not strictly legal evidence, as they are not *undisputed* by the alleged writters; but they are worthy of some attention as having been brought from different parts of the district, some of them are in writing exactly similar to that of the letters filed by Juddoo. I only allude to this to shew that if the letters are forgeries, either the Darogah must be one of the conspirators, or else the forger must be prescient or ubiquitous. Putting out of the question the genuineness of any of the letters, the entire similarity of the writing of the letters filed by the Darogah from the Mofussil, and of those produced by Juddoo, cannot be the result of coincidence, or of anything but truth or systematic scheming.

A point of the utmost significance and weight in this case must not be left unnoticed; on the contrary, it shall have a separate notice to itself.

It will be perceived that in the first stage of this case, the question of the defendant Joykissen's concern in the illegal duress turns chiefly on the point of Mohesh, in whose house Muddun was found, being, or *not* being, the Gomastah of, or otherwise connected with, the said Joykissen. If this man Mohesh *was* subject to Joykissen the Zemindar, the concern of the latter in such a proceeding as the detention of one of his own ryots in his Gomastah's house for some months would rest on presumption so violent as to be perfectly irresistable, under the circumstances; the said ryot having been for months the subject of a regular case of kidnapping in this Court, in which the Zemindars defendants had been punished, and the only question defendant

remaining against both them and the Zemindar being "where is this long missing ryot, Muddun Dey" ?

Now I have proved by perfectly independent testimony, and by documentary evidence, and by joint Police investigation, that this man Mohesh was at the time of Muddun's (prosecutor) production, the Gomastah of the defendant Joykissen.

The most forcible corroboration of this proof, is afforded by Joykissen Mookerjee himself ! !

On the 2nd June, I sent a Purwana to the defendant Joykissen, desiring him, if the man Mohesh was not Gomastah, and the two Nugdees were not in his employ, to give me a full statement, and satisfactory proof of the fact, without delay.

This was on the day when the Baboo first appeared before me, and when I suppose he had not matured his defence.

On the 4th June, he gives me his statement in reply, to the effect that Mohesh is not and *never was** his Gomastah at all. This statement ("Arzi") is *signed* and *sealed* by the defendant himself. His meaning is obvious, and he cannot pretend that he only intended to say that he was not his Gomastah, at the time of Muddun's release, because he actually draws a comparison, as it were, between the case of Muddon and that of the two Nugdees. Mohes is not and never was, my Gomastah, *but* the two Nugdees *were* formerly in my service, and have now left it." And yet the very *Essence* and *root* of the defence is that Mohesh *was formerly the Gomastah of the defendant*, and was dismissed by him before Muddun's release. And to *this* point the Kabuliat of the new Gomastah, and the evidence on oath, both of himself and the kabuliat writer is adduced. How can a Zemindar dismiss a Gomastah from his service, when he under his sign and seal, never was in his service at all? Can any thing be more glaring ? The moral certainty is complete and surely the legal corroboration is immense. Now, not until the 7th of July, 26th July, and 16th of August, is proof given that Mohesh

* That I may not possibly be mistaken I quote the Bengallee

"পূর্ব্বে ছিলনা ও এক্ষনও নাই"

(who had already been declared, on the 4th June, by the Zemindar's personally, never to have been in the Zemindar's employ was dismissed from that employ! I note* the way in which step by step as the defence matured, proof to this last effect was brought forward, in direct contradiction of the defendant Joykissen's own previous statement of the 4th June. Nor can it be pleaded for a moment, that the defendents meaning was merely that Mohesh was not *his* Gomastah, though he may have been engaged by the relatives of the defendant" For in the petition of the 7th July, the defendant Joykissen, speaks of his *own* dismissal of Mohesh, and relates, in the first person singular the circumstances attending that dismissal; and this Petition is presented *exclusively* in his own name, by his Mooktear, and bears the signature, as the writer of it—of Doorgaprosaud Mitter avowedly an Amlah of Joykissen's, one of his chief witnesses on this very trial, and the alleged writer of some of the principal letters produced by Juddoo.

Can any thing be more fatal to the case set up by the defendant Joykissen, than these two diametrically opposed statements, made by himself? I am only surprised that so keen and clever a man should so have committed *himself*, but having done so, what two opinions, as guiding a judicial decision can possibly exist? can there be a shadow of a doubt that Mohesh was not even his Gomastah, and fearing he had made too sweeping an assertion he modified his defence accordingly.

Truth requires no adjustment, and admits of no modification or degree, and if defendant Joykissen's case is *not* true, then surely Muddun Dey the Prosecutor's case is true, and that is just the conclusion at which I have arrived.

As regards the production of the dispatch Books, the defendant has wisely not laid much stress on them, allowing that

* Petition of the 7th July, regarding dismissal of Mohesh.

Documents filed in support of this, 26th July, nineteen days afterwards.

Evidence brought forward of new Gomastah, himself and others, 16th August, some twenty days afterwards.

Thus nearly 1½ month elapse between the defendant's stating under sign and seal that Mohesh was *never in his employ* and his witnesses deposing on oath to Bassee Pundit being *appointed in Mohesh's stead.*

spurious Despatch Books might easily be prepared to meet the exigency of the case. But beyond this, it must be apparent to the merest novice, that Juddoo, who is admitted by the defendant and his witnesses to have had ready access to the defendant, would not have put numbers so easily susceptible of refutation, unless the letters were realy and bonafide true. If the letters are spurious what more easy than to avoid putting any numbers at all? assigning as a reason any one of fifty reasons why, when relating to matters of this kind, the Zemindaree letters bore *no* numbers, now it is in the evidence* of the defendant's witnesses that the persons in whose writing the letters purport to be, never do write the Baboo's letters, but that other parties duly named, do so, I naturally raised the question, why, if such was the case, the conspirator" Juddoo, admitted to be familiar with the Zemindaree proceedings should have procured the forgery of handwriting of the *wrong* people, when he might just as easily have done the same with the *right* people.

The Defendant and his Counsel urged that the writing of these respectable Amlah was forged in the belief that they would never appear to give evidence in Court, under solemn affirmation.

And, strange to say, they laid very great stress on this point, which not to mince matters, is simply rediculous. How *could* Juddoo hold such a belief, when to use the Defendant's own words, he (Defendant) had, in the previous stage of the case, subpœned "Deputy Magistrates and Moonsiffs," and when, in presence of this very man Juddoo, such men as the Chief Naib of the Defendant's principal estate, and the Moonsiff of Kheerpoy, had already appeared in Court and given evidence long before the production of the letters.

I have little else to say on the case, I think the two written defences of the Defendant very able, and deserving of full attention.

I have given to them that attention.—

I must weigh against the evidence for the defence, the evidence for the prosecution. And I am bound to say that looking at the fact that by far the greater portion of the *Defendant's*

* Ishur Mookerjee, Sreemunt Roy, Doorgaprosaud Mitter, and others examined on the same day.

witnesses are such as would have a bias in his favor that their evidence to a great extent is merely a *flat naked denial* of points already *proved by the prosecution*. Looking to the notorious influence of this Zemindar and the *intense* difficulty of getting any proof in case of any illegal proceeding, should such be perpetrated by him, looking at the depositions of the Police Darogahs, and their investigation, and the Dakhilas, 'at the letters supported by proof and rendered prima-facie credible for ten thousand reasons, I think it sufficiently proved that the Prosecutor *was* carried off as described, *was* placed finally with Mohesh *who was at that time* the Zemindar, Defendant's Gomastah, and that this forcible abduction and illegal duress was carried on under the orders and with the full knowledge of this Defendant whom I therefore punish as noted in column.

The man Mohesh has not appeared.—

I fail to see the applicability of certain instances of forgery carried out by conspiracy, cited by the Defendant in his written defence, and dwelt on, somewhat at length, by his counsel in their remarks on the whole case to the Court. In *these* instances the whole gist and success of the forgery lay in their being wonderfully executed, that the persons whose writing was forged could not tell their own real handwriting from the Forgery. And these, forsooth, are the cases which are adduced to support a defence of which a main ingredient is the alleged *easy detection* of the forgery and signature unhesitating repudiation and *flat denial* thereof by the persons whose writing they purport to be.

I have annexed one or two notes in the Margin of the written defence, which will of course remain on the record, and need not be repeated here.

As against the whole case for the prosecution, what am I called on to believe. An Hypothesis positively *gigantic*, under which, in the first stage of the case a band of conspirators are named as getting the Prosecutor into Voluntary durance, and of this band Joynarain Halda the first informant in this case, and a powerful neighbouring Zemindar, Bholanauth Koondoo, are the prime movers. This part of the case closes after due

investigation, and a new case unavoidably opens on the basis of certain letters which are said to be equally false with the first case, and to be owing to *another conspiracy*, new and entirely distinct, in which Judoo and Peary Loll are the chief movers. The last "conspirators" have nothing to do with the first conspiracy and the first conspirators have nothing to do with the last conspiracy.

No doubt Peary Loll has enmity with the Defendant. *No doubt* he, in conjunction with Judoo produced these letters, and, as I *admit* all this, I cannot see the need of such a keen attempt to *prove* it. But every word of what has been adduced against Peary Loll, will apply equally as to his producing *genuine letters* to substantiate *a true case* and to his conspiracy to produce *spurious* letters so as to bolster up a false case.

I forbear to enter in detail into the matters to which the evidence of the Nazir and of Peary Loll relate. I did not go into these points, which would still further have delayed this *weary* case. I may briefly say that it is by no means impossible that the Defendants really *did* desire to get Judoo out of the way, and the possibility of the Defendants motive for such a course which the Defendant notes in his defence as unintelligible, seems to me quite the reverse, obvious, and, as such, requiring no notice.

So far from offering any apology or explanation regarding the delay which has unavoidably occurred before this case has been brought to a termination, I court the minutest enquiry as to whether under disadvantages, which I mean no trifling or disrespect in characterizing as "too tedious to mention," I have not taken the greatest pains to follow up this heavy case during its progress and now at its close to lay it fully and clearly before the Higher Courts, for it will inevitably be appealed.

This very decision, and the final "going over" of the voluminous Papers, necessary to enable me to give it that clearness and fullness, without which a decision is merely one more bit of paper added to the "Nuthee" this has alone occupied *fourteen hours* with only one hour's intermission.

I have thought it worth while to have this Nuthee looked over, and to make the following statement.

1. The case consisting of some 1,000 papers (counted) has been before me, for hearing in full, on *twenty five day's*, quite irrespective of the numerous occasions on which it has been brought up for detached orders &c. &c. Of these twenty five days, as the Counsel can testify, there have been days on each of which the hearing has occupied 7 hours, and it has *generally* occupied 5½ or six hours. So that out of six months, this *one* case has almost absorbed one entire month, or one *ample sixth* of my *entire official work for that period.* This is no idle writing, nor can it be said that, even allowing it to be true, there is no cause for my alluding to it. Those into whose hands this decision, or this record is likely to come, know well the numerous departments of work to which a Magistrate ought to, and generally does, turn his attention; and they can appreciate my wish to put on record a statement which to "outsiders" may seem unreasonable, but which I now deliberately make,—that for this one case, my office work was sometimes quite brought to a stand-still." During the period of the progress of this case, I was for several weeks left entirely single handed, in this Magistracy. The Doorga Poojah Holidays intervened, and, I may add I was for four months of the time so unwell, as to be advised to quit my office and to go away on leave,—I can conscienscously say that my determination not to leave to another officer, such a case as this (an intimate acquaintance with which from its outset was essential) was *at that time*, one reason which induced me to remain at my post. I only mention these points, so unusual to introduce into a Judicial decision, to show the difficulties I have had to contend with, and to anticipate the possibility of my being supposed to make expost facto "statements regarding the protracted nature of a case of which I only wish to say that it has not been unduly protracted but quite the reverse. I do not wish to give any *undue* importance to the case, though it would be difficult to exaggerate its effects, the interest it has caused &c., I believe, however, that few if any Magistrates have ever had to deal with a case, so keenly contested, or of which the effects were more wide-spread.

And yet, notwithstanding all this—notwithstanding the difficulties both of the case and those independent of the case, with which I have had to contend, notwithstanding five European Barristers and Councel, besides several Vakeels, have "off and on" been retained, whose cross examination has occupied hours and hours of each day, still the case as against the chief Defendant and since the production of the missing man, only occupied four months up to the filing of the letters, and the difficult and intricate case consequent on the production of these letters has only occupied two months.

With reference to the circumstances of the case, I consider that the first case occupying only one month more, and the second case occupying one month less than the limit prescribed, is a very fair result. Certainly it has only been attained at the expence of much labour and care.

I accordingly protest against the Defendant and his Counsel, in their written recorded defence, saddling *me* with this heavy nuthee, On the contrary I have declined to postpone on several occasions. Several witnesses who were "subpœned" and whose attendance was urgently asked for, I declined to call, or examine on oath, (agreeably to the consent of the Defendant and his Counsel at last given) &c &c.

And I wish to lay stress on the point that from the numerous Counsel retained. I was more or less obliged,—on each occasion of hearing the case, to name a particular day for the *next* hearing, and, if, there was an intermediate day on which I could easily have taken the case; I was obliged to let it stand over.—If the case has assumed the appearance of a state trial," as the Defendant and his Council inform me,—it is owing, *not*, as they say to the Court and its officers lending every assistance to the Prosecutor," but to their own proceedings, in retaining a perfect band of Counsel, in (to use again their own words) "meeting the evidence by the direct contradiction of other witnesses," in their constant postponements in their protracted cross-examinations and so on.

To all *this* is owing the bulk of this case, and weary of it as I was, I should have been most heartily rejoiced, if the Defendant would have left the case for decision months ago.

I do not see what I *could* have done, beyond what I *have* done unless I had given into the keenness, with which, step by step, and point on point, the case was contested by the Defendant. And this I was determinted not to do, and the result has justified the course I pursued.

The other case of Juggoo Paul, I send up for such attention as it may call for. He and a man Bhoirub Bhandary were alleged to have been carried off in connection with this case, and to have been kept in illegal duress similarly to Muddun Dey. The last named of the two gave his deposition before Juggoo Paul appeared, and Juggoo Paul on his appearance contradicted the deposition of Bhoirub so as to make it very difficult to go on with the case with any chance of any other result than certain acquittal of the Defendant. I have no doubt myself that the contradiction was *purposely* made but I do not intend to go on with the case and file the papers of it with this case of Muddun Dey.

I wish also to explain why I put the man Ram Dyal on his oath. He did not appear till the 17th November. Had I put him on his defence, the case would have been delayed weeks or months, and the Prosecutor Muddun Dey, and other witnesses would have been liable to fresh cross-examination, on the whole of these evidence, a consummation, which for *special reasons duly recorded in a Vernacular order*, on the case I particularly wished to avoid.

To prevent his being put on his defence, or being used as a witness by the defence, I put him on his oath, and filed his evidence with the Nuthee.

Several other cases (minor ones) to which this case during its ponderous march has given rise, are also sent up and will remain filed with "the papers of this case now decided. I file my own English notes" on the case, containing, in many instances, full Translations of whole Depositions. These "notes" are themselves very much of the size of an ordinary Nuthee.

(Sd.) JERVOISE J. GREY,

December 9th, 1858. *Magistrate Howrah.*

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24 Pergunnahs Sessions Judge's Court.

FOUZDAREE APPEAL.

THE 13TH OF DECEMBER, 1858.

No. 304 OF 1858.

Lower Court. The Magistrate of Howrah.

Presiding Officer and his Powers, J. J. GREY, ESQ., FULL.

Date of Decision, 9th December, 1858.

Date of Appeal, 9th December, 1858.

CRIME CHARGED:

ILLEGAL DURESS, &c.

Order of Lower Court,

Four (4) months' imprisonment and 200 Rs. fine in lieu of labor.

Parties { JOYKISSEN MOOKERJEE,.....*Petitioner.*
{ KEENEE BEWAH,..... .....*Second Party.*

Vakeels of Petitioners. { Messrs. L. CLARKE and
{ J. NEWMARCH.

Abstract of Case and Judgment in Appeal.

This is an appeal preferred by Baboo Joykissen Mookerjee, from an order of the Magistrate of Howrah sentencing him to imprisonment for a period of four months, under the circumstances stated by him in his written decision.

It appears that one Muddun Dey, when proceeding on the 15th of February spontaneously to the Mal Cutcherry of the appellant, in company with Juddoo Nauth, a non appellant defendant, and the Gomastah of the Baboo appellant, was met by three men, who upon a private hint or signal of the Go-

mastah, having asked him if he was Muddun Dey, arrested him, saying they had a writ against him under VII of 1799.

He was then carried to the Baboo's house at Ooterparrah, and at midnight put in charge of Sadoo Sing, the Durwan, and two others, and sent in a small boat to Chinsurah, thence to Dwarbashinee, by order of Bejoykissen, the brother of the appellant, and Issur Mookerjee, his Dewan. On delivering the letter to Boloram, a Karkoon, and Bhyrub Chuckerbutty, Muddun Dey was put upon guard of Sadoo Sing and two others. He was kept there some ten or twelve days, and then removed to Gredhur Patokes. Thence he was after a similar time removed to the house of Taruck Mookerjee, and after a similar period was taken to Madob Banerjee's house at Melkee; thence again on the 22nd Chyet he was removed to the house of Mohesh Banerjee at Goayee, where he was found by the Police on the 25th of May, having been under duress from the date of his being kidnapped (15th of February) three months and ten days.

The parties found guilty of carrying the man off had been punished, and appealed to this Court. At this time no trace of the party kidnapped had been discovered. The evidence upon which those persons had been convicted, having been taken behind their backs, that informality rendered it necessary to send the case back, in order that those defendants might have an opportunity of cross-examining those particular witnesses, and as it appeared, that the abducted individual had been traced to the house of the appellant, the Magistrate was directed in general terms, to follow up that trace and pass proper orders, disposing of the case himself or sending it up to the Sessions, if it resulted in conviction. That result is now before us, in the present proceedings of the Magistrate.

It appears that at the time of this abduction, the party kidnapped had a case pending in the Magistrate's Court, and that the object of this act of kidnapping was to have this case struck off the Magistrate's file, for default to prosecute. That action was brought against Juddoo Nauth for a robbery of his goods and effects to a very large amount, under an

ostensible distress levied upon the shop of his partner, also kidnapped, as appears from letters filed in this case, No. 1489, and the abduction was effected in order to have that case struck off the file. It appears from the original petition of Muddun Dey and the deposition of his wife, 23rd February, that her husband had dug a tank, and sold a house, and that a Chout (25 per cent.) or 250 Rs. had been demanded, which demand had been refused as the house had not been sold, but merely mortagaged. It appears that on the 25th of Pouse, Muddun had applied for protection and recognizances were taken. He noted in his petitions that they were about to levy this 25 per Cent. by force ; that Latteyals were stationed in every direction. On the 3rd he again petitioned, and on the 7th of Maugh they carried off some 858 Rs. worth of grain and other property, in all about 1000 Rs. It was therefore that action that it was in contemplation to counteract by the abduction of the Prosecutor, and his subsequent duress.

It appears that previously, he had been about the Poojah, September or October preceding, sent to Ooterparrah. There he had been coerced into giving an engagement to pay this 250 Rs., and upon doing so, returned home (wife's deposition.) The engagement was to pay 50 Rs. per mensem. After some days he was again taken off to the Cutcherry and coming home again he concealed himself, and started the next morning, at dawn, to complain to the Magistrate. It would appear whilst this was going on (vide letter 1295) that his property was again carried off, and subsequently further property was carried off. This was 45 maunds of hemp. This was claimed as belonging to Neloo Ghose, under a simulated distress.

The whole of the proceedings against Muddun Dey thus originate in the demand of the Zemindar to pay him Co.'s Rs. 250, or one fourth of the proceeds of a sale by him. I regret to add that this is the practice of almost every Zemindar, extortionate and oppressive as it is. In this case, that money was to be extorted. The manner in which that extortion was carried out formed the subject of Muddun Dey's complaint.

Bearing these preliminary *facts* in mind, we are in a position to form juster conclusions as to the truth or falsehood of the statements of the parties respectively.

There is good and sufficient evidence of the kidnapping : that was attended by no particular violence. He was cajoled away, until he met the three men simulating bailiffs.

The evidence of the school-master of the Baboo's school speaks to the fact of his being taken off by those particular parties, and it is especially necessary to note that fact at starting, as he was then in the custody of those particular parties, setting out from his home in their charge. Like a person in the days of the inquisition, he disappears from the face of day, and becomes "*Goom*," or lost. Many of these unfortunate victims of unscrupulous and extortionate Zemindars are never heard of again, and in this particular case, no statement is made by Muddun Dey of any maltreatment, such as Telneparrah case, reduced the kidnapped man to the colour of a goose's egg, after 14 month's captivity. I have to note no such atrocities in this case.

The evidence is complete as to the actual kidnapping and the recovery of the kidnapped individual in the house of Mohesh in the Hooghly district.

The appellant was called upon to state whether that Mohesh and the two guards stationed there were or were not his servants. On the 4th of June, he gives in a written statement, asserting that, as to Mohesh, he had never been his servant; and as to the two guards, that they had been discharged previously, drawing this special difference between the Gomastah and the Latteyals.

Upon this, the Magistrate of Howrah directed the Darogah of Doomjoor to proceed and enquire into that specific fact. He, accompanied by the Darogah of the Local Thanah, did so, and has sent in undoubted evidence and proof that Mohesh was the Gomastah in the employment of the Appellant. That report is dated on the 14th of the same month, June.

On the 7th of July, to counteract this report, the Baboo Appellant puts in a petition, stating that he had been his servant,

but had been discharged, but he drew this distinction in his return to the Magistrate's requisition, 4th June, that the Nugdees had been previously in *his* service, and had been dismissed, but the Gomastah was never in his service *at all.*

This is a very important part of this case, as it traces the custody of the man, Muddun, to a servant of the Appellants. In continuity of the first act of the kidnapping, the removal of the man to the appellant's house at Ooterparrah, and the custody of the agent Gomastah, is virtually, actually, and not only constructively, a custody of the Principal, the Baboo appellant, and the extreme ends being proved, we take what is intermediate. by presumption, paying but little attention to those matters.

It is especially stated by the counsel, Mr. Newmarch, that it is extraordinary that a man who is so practically acquainted with the conduct of cases and their management, and who is so closely occupied in looking after his extensive estates, should commit himself to such a statement as that of the 4th June; but the Counsel is not able to deny that statement. It is said it was a statement so easy to refute. But the Zemindaree influence is all powerful, the Police corrupt to a degree, and probably, the Appellant may have trusted to suppress the fact, if enquired into by the local Police, and which he was unable to do, because the enquiry was made by the Darogah of Doomjoor, one of the best Police Officers we have. It is further to be noted that the appellant Baboo is a man known to take the active conduct and management of all his affairs. He does not stand in the position of a man who leaves, the management of his estates to distant Naibs and Dewans and lives in vice, sloth, and debauchery, utterly careless and indifferent to what goes on in them,—and it is beyond any inference of probability, that any Gomastah could act, as Judoonauth is said to have acted, in simulating distress, under cover of which to rob and plunder the prosecutor, to whom his victim would at once complain, without authority from the Baboo.—Neither is it within the limit of any such inference, that this Gomastah could carry off and have the man thus kidnapped removed to a distance, and placed in the house of his master's

Gomastah, in charge of two of his master's Latteyals, without the full authority of the Baboo Appellant.—It is stated that the village in which this man Mohesh lived was not part of the Appellant's property.—It belonged however to his brother Rajkissen, and it altogether does away with the idea of any conspiracy to simulate a case of kidnapping, when we consider how impossible it would be to introduce a person, to discover whom the Police had been for some three months using many exertions, into a village in that brother's estate,—and to keep him there, so as not to be known to the Baboo's people.

He is found there ; it is fully established that the man was the Gomastah of the Baboo Appellant ; and as to the Latteyals in charge of the kidnapped man, it is explained that they had been dismissed ; but they were in the house of the Gomastah, who was not dismissed, and not one word of credit attaches to that statement.

The proceedings had arrived at this stage, in which the Magistrate says, a case of very violent presumption was established against the Baboo ; and at this particular time, the Defendant Juddoonauth, to secure impunity or mitigated punishment, induced to take the step by the persuasions of Peareeloll, a Moonsiff, and a bitter foe to the Appellant, puts in a number of letters purporting to contain direct and specific orders to carry off the man, Muddun ; under the force of which he acted.

Judoonauth had put in the usual alibi defence up to this point. He had brought several witnesses to set up that alibi, and these men had given the necessary evidence.—It appears that Peareeloll introduced Juddoonauth to the Deputy Magistrate, who detailed the circumstances of these letters, which were in a bundle, first opened in the Magistrate's presence. *It must be noted that the case was* conducted for the defence by Joykissen himself. It was his counsel and attornies that shaped that defence and carried it on, and the charge of subornation of perjury can scarcely lie exclusively at the door of Judoonauth.

Further enquiry was made into the matter of those letters, which the Magistrate, as jury of the fact, holds to be es-

tablished upon comparison with the undisputed writings in the record; and, if genuine, these letters do establish the fact that whatever was done by Juddoonauth, was simply in connection with the orders of the Baboo Appellant.

There is a letter No. 1252 of the 29th Pouse, 1264; this, after entering into matters concerning the kidnapped man, enjoins him at present to do nothing in the matter of seizing him, but to take his property under a distress, XX. 1817. V. 1812. Setting up an obedient "*Iktyare*" man, calling him a ryot of Kishenpore, as the owner of the goods, and that the Gomashtah of that Mehal had been instructed to co-operate with him. He was then to remove the property from the owner's house at Bullattee to Kishtopore, and to take every other necessary step to carry out that matter, and if the proceeds amounted to 250 or 300 Rupees thus obtained from the party in Juggernath's shop (Muddun Dey's partner) that the rest of the property in his house need not be destrained. All this is to be done with the utmost secrecy (*oti gopone*) and if it transpires, then the Gomashtah was threatened with condign punishment." This note bears at the foot of it in pencil, Clause II. Section 27, 20." That is an instruction to apply under that section for a Mozkorry pyadah &c., under, Clause II. Section 27, 20 Reg. 1817.

This letter, if genuine, is in reference to this money to be extorted from Muddun Dey, the 250 Rupees or the 25 per cent on the sale proceeds, and if a genuine document does show, the appellant to be a man altogether unscrupulous in the ways and means by which he may accomplish his evil and extortionate ends. First we have him giving directions to simulate a defaulter; to attach the property of the man *Muddun* as the property of that "Iktyaree" Defaulter. To go to the police Darogah and make oath or solemn affirmation (clause II. Supra) to furnish all the perjured evidence, necessary to carry out this iniquitous robbery, and then we have the conclusion, that if any thing went wrong, so as to bring the matter to light, his agent in this detestable act, is to suffer condign punishment. It is this system, that has driven the people of Bengal almost to

the point of desperation, and it is the suppression of these disgraceful revelations in which we at once see the motive, actuating the kidnapping of the Prosecutor *Muddun Dey*. Another letter 1180 refers amongst many other things to the money still due by *Muddun Mohun*. This is dated 23rd Pose 1264. One dated 8th Maugh 1264. This directs Judoonauth that if Anund Chunder does take possession before, the 25 per cent. is paid, to seize him and to put ten or fifteen fellows into possession, saying, the Baboo has bought it, which men the Kistopore Amlah will supply and if any disturbance takes place, Judoonauth was to report that same evening. He is directed to send copies of his distraint proceedings and an estimate of the property taken under them, and keep a look out for Muddun Dey, and if he encountered him to seize him and send him to the Baboo Appealant. He is also to report what the Darogah says upon his Juddoo Nauth's petition. This Anund Chunder is the purchaser from Muddun.

No. 1489 urges him to make his present collections equal to the last, to report what measures were going on as to Muddun's case. Juggo Nauth was still kept in custody, but was very anxious to be allowed to go home. Whether he may go or not, write and say 10th Falgoon 1264 or 20th February 1858. No. 1312 Maugh 5th 1264 or 17th January, sending copies of Muddun Dey's two petitions and the Darogah's report &c. These are to be filed in his office. As it is understood that Muddun is concealed in the house of Issur Chuckerbutty, tell him to attend here to-morrow, go also to the Darogah of Bidebattee and get a pyadah and remove the property as already directed and if you have a chance seize Muddun Dey and send him here. State what the Darogah says and prejudice him against Muddun Dey. No. 1295.—Forwarding copy of Muddun Dey's petition to the Magistrate, and directing him, that this need not stop the distress. That, the Mooktyar had been directed to apply to stop the order of the Magistrate, directing his, Juddoo Nauth's attendance, 4th Magh or 16th January. No. 1280.—Magh 3rd or January 15th.

Your message has arrived. You said, that Bulluttee was in Chundeetolah, if so, why did Muddun complain at Howrah. Be that as it may, orders have been passed to the Mooktyars of Howrah, and Serampore to enquire. If Muddun petitions, you can get the information, and you will send a copy of your distraint petition. If Bulluttee is in Chundeetolah you will take away all the property &c. You, and the Tohsildar can have as many men as you like from Bulluttee, and Kistopore.

These letters, purporting to be the letters of the appellant, bear a peculiar signature, similar to that customarily used by the Baboo, as admitted by the defendant and his Amlah, and as shown to be the case by other letters put in by the police as obtained by them. The Magistrate states his conviction to be, that the letters are bonâ fide letters, written by the Amlah of the appellant and that circumstance considered with the violent presumption which existed before those letters were produced to afford all essential proof necessary for the conviction of the Defendant. The Magistrate looks to the impossibility and improbability of forging 150 letters, written by seven or eight different people, many of which were without reference to this case at all. It would be needless to recapitulate all the reasons recorded by the Magistrate in support of the genuineness of those letters, as I concur in his conclusions, that the letters are what they purport to be bonâ fide letters, written in the usual course of business, by different Amlah. As to proof of handwriting, the Magistrate has compared the notes written by *Nobokisto* and *Doorgaprosaud* two of these officials with various papers filed in the case by the appellant or his agents, which were written, or endorsed, and signed by Nobokisto Roy. There are some 25 or 30. Of these the Magistrate has noticed and checked some 10 or 12. Again, the petition of 2nd June, written by Doorgaprosaud *and admitted to be written by him*, is put in and the Magistrate as jury of the fact finds that there is a complete and perfect agreement, in the handwriting of these two men, in the petitions and in the notes.

The Magistrate notices other cogent and coincident circumstances establishing other letters.

The Defence set up, was, that the Prosecutor Muddun, had never been kidnapped at all, that the abduction was a simulated abduction, conspiracy, descrepancies in the different statements, that he went voluntarily to the house of Mohesh, was a partner. That he was not the appellant's Gomastah, having been dismissed and so forth.

I have read and noted the arguments by Mr. Grey. They are in my mind conclusive, coupled with the leading facts of the case which have been fully established, viz., the abduction, the finding of the abductee, and the existence of a dominant motive for the abduction. In appeal Mr. Newmarch addresses himself to the different improbabilities, primâ facie. He takes objection on the point of Law 9 of 1807. That there was a motive wanting in the abduction of the Prosecutor. That it was at the time when the Mohurrir had reported favorably for the Defendants, and when Keenee Dassee, the wife had stated that the case had been amicably settled. That this kidnapping a prosecutor was an ingenius mode of making the Magistrate more vigorous in carrying on the case and for this object, a kidnapping farce was played out. That the mode and manner of arrest was singularly improbable in the open day, at 3 P. M. and necessitating the parties to pass by the School. Then as to the Locus in quo of his custody that he was carelessly kept. The police had no difficulty in finding them. That Keenee Dassee's statement was discrepant. That the Chowkeedar Prem contradicted him upon the fact of meeting him when under arrest. That his statement as to meeting his grandson at the School, and telling him to inform his wife, was not supported, as the School masters could not say that they saw the two speak or that they saw his wife come there. Mr. Newmarch then impugns the proceedings of the Police, that they ought to have taken all the papers in the Cutcherry. Mr. Newmarch refers to Mr. Grey's decision, that up to the date of the letters being

produced, there was not a sufficient ground for the conviction of the Prisoner Appellant, and then leaves to Mr. Clarke, the duty of speaking upon the Law points.

I am of opinion that I must leave the fact as found by the Magistrate. The Darogah had no warrant to go and seize the Cutcherry records, and his statement, is confirmed by the Baboo himself in a subsequent petition, admitting the fact, that he had orginally denied, and which denial necessitated the deputation of the Police Darogah. The man Muddun was undoubtedly carried off by the Appellant's Agents; he was as undoubtedly found in their custody many miles away. The extreme points being established, the intermediate matters to which the descrepencies generally refer are beneath notice in detail.

If the Appeal is to succeed, it must succeed upon the Law points. I affirm the finding of the Lower Court as to the fact that the man was kidnapped, in other words that Muddun Dey did not simulate that.

What is the nature of the offence? I consider that the offence of causing a prosecutor to be kidnapped, so that, his prosecution may fail, to be one of the highest offences, that can be committed. It strikes at the very root of all possible Civil Government. It sets up an authority superior to the Law. It overrides it entirely and I suppose in no country but Bengal and the immediate districts, at the seat of Government does such a state of affairs exist. Beyond this it only remains to usurp the political Government of the State.

The Legislature has not provided any specific Law, to meet this state of affairs and thus a state of Lawlessness in these districts round Calcutta exists, under which the Zemindars have usurped the entire functions of the Law in many instances. It would not be in point, to allude to any particular case; but here we have a case, in which a prosecutor is actually carried off and kept in confinement until his rescue. This fact makes the case so much more serious than the Telenceparah one, in as much as the party, then kidnapped, was not a prosecutor, in any Magistrate's Court.

It is in every sense of the word a henious offence, under Section III. of Regulation IX. 1807. I should have, in my application of the offence, directed the immediate apprehension of the parties concerned and refused bail until the production of the man Muddun. The action of the Magistrate could not be arrested simply because, the abducted party was not able to give his complaint in writing, and by reason of his being kidnapped could not attend by attorney. Section IV. necessitates as preliminary to a warrant of arrest a deposition on oath by a credible person, but this preliminary may be dispensed with; where a person has been suspected of having committed a heinous crime or for whose apprehension sufficient cause may appear upon the report of a police officer or upon any other credible information.

The first objection is the absence of a written complaint specially refering to Joykissen Mookerjee, the appellant.

Answer. There is the sworn deposition of Muddun Dey,—the sworn deposition of his wife involving Joykissen's complicity in this case and the Police reports, especially that of the 25th February. I conceive that the Magistrate had jurisdiction under Section IV. Regulation IX. 1807. It is not necessary to originate jurisdiction, that every party to a given offence should be named. It is only necessary that there should be a complaint or a Police report to initiate the action of the Magistrate. On the day of the occurrence 5th Falgoon, 15th February, the wife went to the Burkundaz of Baeskore and reported the abduction of her husband, vide the Magistrates order of the 20th upon the report of the Darogah of the 18th.

2nd. That the Magistrate has improperly received in evidence letters and writings which were not undisputed for the purpose of comparing the handwriting.

Answer. This objection is raised upon the difference between the Act of Parliament and Regulation.—The latter has the words "to the satisfaction of the Judge."—The former omits the words. The Act of Parliament says "comparison of a disputed writing with any writing proved to the satisfaction of the Judge to be

genuine shall be permitted to be made by witness."—By the act II. 1855, any undisputed signature may be compared with signature under dispute.

There were several undisputed documents compared by the Magistrate and he found upon their comparison, that the handwriting of two of the writers of those notes, corresponded with the undisputed documents, with which they were compared. In this way the genuineness of those letters was established. The question was were those letters genuine or were they forgeries. The Defendant appellant asserted the latter fact, the result however established their genuineness and it must be also borne in mind, that there are numerous other symbols, from which in these matters, we arrive at a more certain opinion of the genuineness of any written instrument, than we can do from any mere comparison of handwriting. This plea fails.

3rd. As to an alleged reopening of the case; the case was only in a certain sense finished and before being called up for judgment the case was reopened by one of the Defendants, in his own vindication putting, in letters of authorization and admitting the offence which he had committed, under pressure of his master's orders. The appellant's Counsel Mr. Clarke, and I regret that I cannot do justice to that ability which makes him so distinguished a member of the Calcutta Bar, refers to a case, before the Supreme Court where after a party had *been indicted for murder*, and the trial had concluded or was on the point of concluding, an application was made to admit three new witnesses to be heard in support of the Prosecution and which application was rejected. That case is in no possible analogy to the present case. No order had been passed by the Magistrate upon it, and the case was reopened upon the application of one of the Defendants. This plea in bar I hold to be bad and untenable.

The fourth plea is equally bad.—It is in evidence that the Defendant Juddoonauth produced the letters and the Defendants accepted a written statement by Roobucary in lieu of the deposition of the Deputy Magistrate. The deposition of Peareeloll also shows how the letters came before the Court. The next plea

is as to irregular admission of the Depositions of certain witnesses on the 18th November, the proceedings having closed for the day. Mr. Clarke's account of this part of the case is very straightforward. He says it was so dark he could not see, that after breaking up, the Nazir reported that there were still three witnesses in attendance, who were examined; but the Defendants called up those very men next day and cross-examined them. If their evidence be bad that would affect the evidence of those deponents only, but, when the Prisoner cross-examined those witnesses on the following day, that objection passes by waiver, and the present plea is estapped.

That the proceedings are irregular in as much as, Juddoonauth was allowed to cross-examine witnesses for the prosecution with a view to establish Joykissen's guilt. To this the answer is obvious. Every prisoner is at liberty to cross-examine any witness, in any way necessary to his defence. His defence, was that he acted under force of Joykissen's orders contrarily, the defence of Joykissen was, that he never gave them. Now what was a question, exculpatory in its tendency to Juddoonauth, was of necessity inculpatory to Joykissen and this objection is specious rather than sound. Looking through the depositions in this case I see that the Moonsiff, Peareeloll, gives a detail of an interview with the Appellant, at which he was asked to undertake the removal of Juddoonauth and at which time the subject of letters having been produced was discussed. Mr. Clarke impeached in very strong language his evidence in connection with his share in inducing the prisoner Juddoonauth, to produce those letters. There seems to have been some foundation for the remark, in so far, as he was in some points contradicted by the Deputy-Magistrate, whose conduct has been described as open and straightforward. This witness openly avows his hostility to Joykissen. That arose in Civil proceedings under a will propounded by him in Probate, and which was set aside upon an opposition promoted by the appellant Joykissen. In considering this case I will allow the evidence given of that interview with Joykissen, the appellant, to be without weight, in forming the conclusion at which I arrive, but I by

no means desire that my so doing shall be the slightest impeachment of his veracity as to that particular fact. I find that the Baboo Joykissen is guilty of causing the man Muddun Dey, a prosecutor in the Magistrate's Court, to be arrested and carried off and kept in confinement, first upon the violent presumptions arising in the case, upon his denial more especially of the party Mohesh being his Gomashtah. That was a point, the truth or falsehood of which was as it were an issue, finally regulating the case pro or con. His statement was, that the man was never his servant. The defence failed. I am of opinion that the sentence might have been confirmed, if it had passed at that stage. But the letters proved to be genuine by comparison of handwriting with documents undisputed, put on the file by the defendants themselves, show that this Appellant, had been conserting with Judoonauuth, one of the most disgraceful acts of spoliation, that can well be imagined. To stop the prosecution into that act of Robbery, the appellant is shown to have directed in the usual course of his Office business, the man he had first Robbed of his property, to be carried off, lest that evil act should be brought to light. It is not in my estimate of crime, the less an act of Robbery, because it was effected under a simulation of a legal Process. That I conceive to be an aggravation, of what was before, a Crime.

No moral doubt can exist as to the Appellant's active and directing control and management of all the oppression, practised upon the unfortunate man Muddon Dey. The extortionate demand of Rs. 250, 25 per cent. of the purchase money, (vide report of Darogah 25th February) was the Appellent's demand, not that of his Gomastah. The stimulated distress, under a false personation of ownership, and the removal of the property of Muddon, whilst his co-partner was shut up, (vide letters) was the Appellant's act, and the kidnapping of the man he had first oppressed and then robbed, was the act of Appellant and not the act of the Gomastah, further than as the Baboo's agent.

For the latter offence only, has the Appellant been tried and convicted. That offence has not been specially provided for by statute. The time is come, when this defect should be remedied, by a law, providing adequate punishment and extending to transportation for life. Such is my estimate of this offence, and as I cannot add to the sentence of the Lower Court, I certainly cannot reduce that punishment.

The Magistrate has been overcourteous to the Appellant; opportunities of explanation have been offered him beyond the requirements of law or practice. A Defendant whatever his rank, is a defendant, and should be simply put to his pleas. The Court of Howrah should be re-arranged, so as to admit of conveniences for Defendants and counsel. It is now occupied by what rather resemble sheep pens. These remarks are an answer to observations by counsel.

The conduct of this case has been delayed by the Defendants. The number of counsel employed, and the number of witnesses examined and cross-examined. The result of the Magistrate's patient, enquiry is very creditable to him. Under these circumstances, and with these observations upon this case. I hereby confirm the the orders of the Magistsate of Howrah, and dismiss the appeal.

(Sd.) E. LAUTOUR,
Sessions Judge.

December 13th, 1858.

After reading the Judgement of the Court, Mr. Newmarch desired to note, that he had requested before the reading, to have an affidavit admitted by Mr. Paul, to the effect that the error on the Baboo's return of the 4th June, was clerical. I did not consider that position tenable, simply because no clerical error, could originate, in a misapprehension by an attorney, in a matter not contingent upon his instructions, that return having been made direct to the Magistrate, without any intervention of Mr. Paul. The point was that such had been brought to the Magistrate's notice, by parole. Had it been so to make it of any use

the statement should have been made before the Darogah's report upon the enquiry, and that it was not so made then, is obvious, inasmuch as the admission of that fact, would of course, have led to the Police Darogah recall the enquiry, being no longer necessary.

(Sd) E. LATOUR,
Sessions Judge.

24-Pergunnahs Sessions Judge's Court,
The 13th December, 1858.

Z-1

TO THE HON'BLE THE JUDGES OF THE SUDDER NIZAMUT ADAWLUT CALCUTTA.

Petition of Appeal against the decision of E. Latour, Esq., Session's Judge of 24-Pergunnahs, dated 13th December, 1858, confirming a sentence passed by J. J. Grey, Esq., Magistrate of Howrah, on the 9th December, 1858, awarding four month's imprisonment and a fine of 200 Rs. in lieu of labor.

JOYKISSEN MOOKERJEE, *Appellant.*

Sheweth,

That the above decision is wrong and unlawful for the following reasons :—

1st. That the Magistrate proceeded irregularly in issuing the summons requiring your Petitioner to answer the charge upon which he has been convicted without any complaint in writing having been previously preferred against your Petitioner by name as required by Section 6 of Regulation IX, of 1807.

2nd. That no formal charge has been made by any Prosecutor against your Petitioner by name.

3rd. That it does not appear with any sufficient certainty on the proceedings, who was as far as your Petitioner was concerned the Prosecutor. That your Petitioner was under the

impression while the case was proceeding, as his written defence shows, that the Magistrate treated Keenee Dassee the wife of Muddun Dey, as Prosecutrix and in the written proceedings of the Session's Judge on Appeal, the parties are stated to be your Petitioner of the one part, and the said Keenee Dassee (called Keenee Bewah) of the other part whereas the Magistrate in his written decision mentions Muddun Dey himself as the Prosecutor.

The above defects are not merely technical as your Petitioner, if desirous to bring an action for malicious prosecution would not know whom to make defendant.

4th. That after the witnesses for the prosecution and those for the defence respectively had been examined and the case on either side had been closed and when on the 11th of October last, the case had come up (as the Magistrate himself has recorded) for "final decision" the case was reopened for the reception of fresh evidence on the part of the Prosecution, which was gone into at great length for the purpose of proving certain letters then for the first time produced purporting to be signed by your Petitioner but the genuineness of which was disputed by your Petitioner. Such reopening of the case for the reception of evidence at that stage of the proceedings before a Magistrate sitting as a Judge to determine the case, was wholly irregular and contrary to the practice of all Courts of Justice.

5th. That objection to such irregularity has been in no respect waived by your Petitioner by his subsequently cross-examining the witnesses produced to prove the said letters as the Magistrate when requested by your Petitioner's Counsel to state whether he was sitting for the purpose of disposing of the case summarily or with a view to committing your Petitioner for trial before the Session's Judge, refused to give the information required, and your Petitioner's Counsel had consequently no opportunity of protesting against the reception of fresh evidence.

6th. That after the case had been reopened as aforesaid fresh evidence was received upon points already investigated and with respect to which the written defence of your Petitioner was before the Court.

7th. That the handwriting and the signature of the letters above alluded to was disputed by your Petitioner and that the Magistrate for the purpose of ascertaining the genuineness of such handwriting and signature respectively compared the same with other writings and signatures which were also disputed by your Petitioner, such method of proof being in contravention of the provisions of Section 48 of Act 2 of 1855.

8th. That after the case had been reopened as aforesaid Judoonauth Moozoomdar a co-defendant with your Petitioner was allowed by the Magistrate to cross-examine at great length, witnesses produced by your Petitioner to disprove the genuineness of the said letters.

9th. That no evidence was given (the statements of the defendant Juddoonauth Moozoomdar being no evidence against your Petitioner) to show how and under what circumstances, the letters above mentioned were first produced as evidence against your Petitioner. That such production was not made in open Court and it appears from the statements made by the Magistrate in his written decision that they were first produced to him at his private house, and when your Petitioner was not present by the defendant Juddoonauth Moozoomdar, having been previously produced by the said defendant in company with one Peary Lall Banergee (whose avowed hostility to me is noticed in the decisions both of the Magistrate and of the Session's Judge) to the deputy Magistrate of Howrah.

The Magistrate has further recorded that the same letters were produced by the same two men to the Session's Judge before whom your Petitioner's Appeal was heard, pending the proceedings against your Petitioner before the Magistrate. The Magistrate has also stated that pending the proceedings against your Petitioner before the Magistrate, the Session's Judge

corresponded with the Magistrate upon the subject of the said letters. Your Petitioner submits that such proceedings were irregular and that your Petitioner may have been prejudiced by statements made at the time when such letters were produced in private to his judges and which statements and the impressions thereby created, your Petitioner has had no opportunity to rebut.

10th. That on the 18th of November, after the Magistrate had declared that the proceedings for the day were closed and had allowed your Petitioner's Counsel to leave the Court under the impression that the proceedings had been so closed, three witnesses for the prosecution were called up and examined, and that your Petitioner in no respect waived, objection to such irregularity by proceeding to cross-examine such witnesses on a subsequent day as he had not then the means of knowing whether or no any irregularity had been committed as the Magistrate had refused to say whether he was sitting with a view to commit the case or decide it summarily.

11th. That witnesses were brought down from Jair to be examined for the prosecution in custody of the Native Officers of the Executive Police and not under subpœna from the Magistrate's Court, such witnesses being of the poorest class and consequently most open to the intimidation or cajolery which your Petitioner fears may have been used towards them, as the Darogah of Thannah Doomjoor in whose custody they were brought down has shown an overzeal to procure your Petitioner's conviction, leading him into irregularities which your Petitioner has been obliged more than once during the course of those proceedings to bring to the notice of the Magistrate by petitions, copies of which are annexed to his Petition of Appeal.

12th. That the said Darogah of Thanna Doomjoor was allowed to be present in Court on several days during the examination of witnesses for the prosecution, standing by the Magistrate and in view of the witnesses under examination, and was allowed to put questions to the witnesses through the Magistrate, which interference of an officer of the Executive

Police in a case which the Magistrate is sitting to dispose of summarily, is, your Petitioner submits irregular.

13th. That your Petitioner instead of being merely put to his pleas (as the Session's Judge has pointed out to be the proper course) has been called upon from time to time during the proceedings before the Magistrate to furnish replies to questions put to him upon particular points connected with the case which replies have been used in evidence against your Petitioner.

Your Petitioner submits that such a practice is inquisitorial and foreign to the spirit of English Jurisprudence.

On two occasions during the course of the present trial it has operated much to the disadvantage of your Petitioner.

On one of these occasions your Petitioner was called upon by Perwanah to send in a statement whether one Mohesh in whose house the man alleged to have been kidnapped was found by the Police, was or was not in the employ of your Petitioner as Gomastah. Your Petitioner directed one of his Amlahs to draw up a reply stating that the said Mohesh was not in your Petitioner's employ for sometime before the time when the kidnapped man was found by the Police; but by the misapprehension of the writer an expression was used which seemed to convey the meaning that Mohesh had never been in your Petitioner's service at all and your Petitioner through inadvertence signed the statement containing such expression. Immediately upon a copy of this reply being placed in the hands of your Petitioner's Attorney Mr. Paul, whom your Petitioner had instructed to produce evidence to shew that Mohesh had once been in your Petitioner's employ but had been dismissed about a year before the occurrences under investigation. Mr. Paul pointed out this apparent discrepancy to your Petitioner, and the error was forthwith brought to the notice of the Magistrate by Mr. Paul.

The Magistrate has in his written decision dwelt much upon this discrepancy but has omitted to state that it was first pointed out to him by your Petitioner's own Attorney. This omission

is no doubt to be ascribed to the Magistrate having forgotten the circumstance just mentioned in the course of a case which he himself characterizes as "weary" from its length, and this is the more possible because the point did not again occur to the Magistrate until after he had decided the case and passed sentence when he was suddenly struck with its importance and then for the first time introduced the notice of it into his written decision. Such introduction itself being as your Petitioner believes an irregularity.

Your Petitioner's Counsel prayed, when the case was in appeal before the Session's Judge to be allowed to set this matter right either by the affidavit of Mr. Paul or by a report to be called for, from the Magistrate but the Session's Judge refused recording reasons for his refusal which upon investigation will be found to rest upon a fallacy. Mr. Paul has, however, since made an affidavit which your Petitioner prays the Court to receive.

The other occasion on which the irregular examination of your Petitioner operated to his disadvantage was on the production of the letters before mentioned on the 11th of October last.

The Magistrate then pressed your Petitioner to acknowledge the letters to be genuine, stating that if your petitioner refused to do so, it would then depend upon the answers which your Petitioner should give to certain questions which would be put to him whether the Magistrate should allow your Petitioner to remain any longer at large upon bail or should forthwith commit your Petitioner to prison pending the further investigation of the case. The Magistrate then offered to allow your Petitioner to retire to advise with Counsel of which offer your Petitioner availed himself. He did not seek for it nor did he hesitate on being first shown a few of the letters to declare them to be forgeries. This was done before the Magistrate offered time to consult with Counsel. The Magistrate has in his written decision commented upon the fact of your Petitioner having retired to, advise with Counsel imagining that the subject of consultation was whether to admit or repudiate the letters whereas the real subject of consideration was the course to be pursued

in the event of the Magistrate proceeding to put his extraordinary threat into execution. The Magistrate has further commented on your Petitioner's demeanour while under examination after his return to Court. Your Petitioner's manner doubtless evinced considerable perturbation. But what was the cause ? not hesitation whether to deny the letters, but anxiety lest your Petitioner's answers should be such as to consign him to Jail during the most sacred period of the Hindoo year.

14th. That your Petitioner has been convicted against the weight of evidence.

Without proceeding to point this out at length as your Petitioner has already done in his written defence filed with English abstracts thereof in the Magistrate's Court (and copies of which abstracts are herewith appended.) Your Petitioner begs to remark that the Magistrate has recorded that the evidence as it stood against your Petitioner before the production of the letters alluded to was, notwithstanding some discrepancies sufficient to induce a violent presumption that the Zemindar (your Petitioner) was concerned in the abduction and duress of the Prosecutor" but adds immediately afterwards. " It was nothing more than a violent presumption" and other passages also in the written decision show that without the letters the Magistrate would not have convicted.

As regards the letters themselves your Petitioner at this stage of the case will merely beg the Court to advert to the fact that they were produced by a man who had previously examined no less than 8 witnesses to prove his alibi at the time of the commission of the offence which the letters bring home to him and who therefore by their production stands self convicted of subornation of perjury, and that moreover the letters if genuine must have been in the possession of the man who produces them for several months before their production during which time he was in exactly the same peril as that which is at last assigned as the cause inducing him to produce them, nay more had actually sustained conviction to avoid which he is supposed eventually to have made a clean breast.

The Judge has in his written decision recorded as a fact that Juddoo Nath was induced to take the step "(of producing these letters)" by the persuasions of Peary Lall a Moonsiff, and bitter foe to the appellant."

The same Judge has further remarked that "it must be noted that the case was conducted for the defence by Joykissen himself. It was his Counsel and attornies that shaped the defence and carried it on; and the charge of subornation of perjury can scarcely lie exclusively at the door of Juddoonath."

Your Petitioner begs to bring to the notice of the Court that these remarks are founded upon a total misapprepension of facts. Your Petitioner did not conduct the defence for the defendant Juddoonath nor had your Petitioner's Counsel or attorney any thing to do with shaping that defence or carrying it on, Juddo Nath filed his own defence in Bengallee and had his witnesses examined on days when neither Counsel nor Attornies attended the Magistrate's Court.

Z-2

Sudder Nizamut Adawlut.

THE 21ST JANUARY, 1859.

PRESENT :—A. SCONCE, ESQ., *Judge.*

No. 144 OF 1858.

JOYKISSEN MOOKERJEE,..... *Petitioner.*

versus

GOVERNMENT, ... *Opposite Party.*

Vakeels of Petitioner.—Messrs Longueville Clarke, J. Newmarch, and R. T. Allan, and Baboos Kishenkishore Ghose, Jugdanund Mookerjee, and Banee Madhub Banerjee.

Vakeel Government.—Baboo Sumboonauth Pundit.

The Petitioner, Joykissen Mookerjee, has been convicted by the Magistrate of Howrah of kidnapping, and illegally detaining

a man named Muddun Dey, and has been sentenced to four month's imprisonment; and as the sentence of the Magistrate has been confirmed by the Session Judge, the prisoner has brought his case in appeal to this Court.

What is stated, and is supposed to have been proved, is that in the afternoon of the 15th, or perhaps 16th February last, Muddun Dey, was led off from his own village, Bullootee, by several men under the direction of Judoonauth, who was employed as a Gomashtah of Joykissen Mookerjee, in that village, and that in the night of the 25th May, he was released by Bykunt Nauth, a police mohurer of Thanah Doomjoor, from the house of one Mohesh of the village Gooyie, also a Gomashtah at that time in the employ of the Prisoner, Petitioner. In his deposition Muddun Dey mentions various places, where, between his capture and release, he had, for periods of several days each been successively kept in confinement, but excepting Muddun's own statement proof of this intermediate detention not offered, and as already said the conviction turns upon proof of the first abduction, and of the release of Muddun, from restraint on the 25th May.

Such is the conclusion to which the Magistrate on the 9th December eventually came; but the prosecution, in the words of the Magistrate, went through two stages; the first stage consisting of the evidence which he had been able to gather respecting the actual abduction and release of Muddun; and the second being characterized by the production by the prisoner, Judoonauth, of certain letters, which purported to be addressed to him by his master, the other prisoner Joykissen Mookerjee, and which divulge, if genuine an infamious complicity in a most nefarious project. Up to the 11th October the evidence on the record went simply to establish the abduction and release. Throughout the period of his protracted detention, Muddun has not seen Joykissen Mookerjee. So far the Magistrate remarks, the records furnished only a violent presumption that the petitioner was concerned in the abduction and duress of prosecutor, but whether that presumption would have resulted in the conviction of Joykissen Mookerjee he with the possession of cumulative

evidence thought it unnecessary to consider. "On the 11th October, however, when the case came up for hearing (and indeed for final decision) in the defendant's presence, certain letters (some 150 in number) were produced in Court by the Magistrate, which had been a few days previously filed with him by the defendant, Judoo." That is, the evidence for the prosecution, and the defence and evidence for the defence having recorded, the case would on the 11th October, have been decided, but that the Magistrate then added to the record letters given to him by one of the prisoners, Judoo, and proceeded to take evidence to support, or from Joykissen Mookerjee, to disprove, the authenticity of these letters.

What immediately proceeded the delivery of the letters to the Magistrate is shewn by the proceeding of the Deputy Magistrate, Baboo Neelmonee Mitter, dated 1st December. In this roobukaree the Deputy Magistrate states that to the best of his recollection, one morning in the month of Assin before the Dusserah holidays, one Pearee Loll (a Moonsiff) came to him at his house in Bhawaneepore; that they talked together, and a little after, a man came whom he had never before seen; that on asking Pearee Loll, who he was, Pearee Loll said, he was Judoonauth, one of Joykissen Mookerjee's men of business and was accused in the same case with his principal; that Pearee Loll asked him, to hear what Jodoonauth had to say; that Judoonauth said, he had seized Muddun Dey by his master's order and was not personally guilty and then placed before him a packet of letters; that he (the Deputy Magistrate) declined to go further into the matter, and proposed to take them both with the letters to the Magistrate, which he immediately did.

The Magistrate confines himself to the reception, as evidence of only a few, out of the Hundred and fifty letters given to him. Many he remarks are wholly unconnected with this case. Many too which directly bear on its purport to be signed by the brother or the son of Joykissen. These the Magistrate does not take notice of. But several letters bear a signature or mark purporting to be that of the accused Joykissen; and while of

these some are unconnected with the charge, thirteen, described by the Magistrate, are said to bear more or less upon it, and it is remarked, if proved to be genuine, must convict the defendant. The Magistrate therefore adds that for the purposes of this case, he is bound to consider those thirteen letters only which he has noted. It is true that having made this remark the Magistrate comments on the probability of genuineness arising from the exhibition of so great a number as one hundred and fifty letters, but returning again to the selected thirteen he proceeds to assert the reasons for declaring these letters to be proved; of the thirteen letters, two are supposed to be written by Nubokisto Rae, three by Doorgah persaud Mitter, five by Isser Mookerjee (or Sirkar) and two by Sreemunt Rae, and all are supposed to bear the mark of the Petitioner, their master, Joykissen Mookerjea. All the persons named deny the letters but comparing the writing of those supposed to be written by Nubokisto and Doorgapersaud, with the writing of other papers which those witnesses admit, that they wrote, and the letters of Issur with other letters said to have been written by him, the Magistrate infers that these three persons wrote the desired letters; and the letters of Sreemunt, he supposes to be proved by the facts admitted by Sreemunt himself.

It is the mode in which the Magistrate has dealt with this proof that has furnished the learned Counsel for the petitioner what appears to me, to be one of the material arguments adduced by them in support of this appeal. The first point taken arises upon the proper construction of the Law of evidence, Act II. of 1855. This Section is as follows. "On an enquiry whether a signature writing or seal is genuine, any undisputed signature writing or seal of the party whose signature writing or seal is under dispute may be compared with the disputed one, though such signature, writing or seal be on an instrument which is not evidence in the cause." Here the Magistrate has compared the disputed letters of Nubokishto and Doorgapersaud with other writings, which those persons admit that they wrote and thus brings his adoption of this evidence within the mean-

ing of Section 48 Act II. of 1855. But it is contended for the prisoner, the petitioner, that the Magistrate has misapplied the law, inasmuch as the undisputed writing, with which the disputed writing may be compared should be a writing which is undisputed by the party whose interest is at stake and, it seems to me that this must be held to be the fair meaning of the Law. The prisoner clearly is to be put in jeopardy only by what he himself admits, not by what another man admits, and in this case I think the Magistrate has erred in looking only to the admission made by Nubokishto and Doorgapersaud. It is true that the petitioner allows those men, to be his Amla; but this does not involve an admission of their writings, and the manifest purpose of the law is that for the purpose of comparison only such writings shall be used as are wholly undisputed by the party affected by their production. In the case of the letters of Issur Mookerjee, they are said to be authenticated by comparison with letters produced by one Kalinauth Mookerjea: but as to the letters of Issur, the Magistrate's own remark is that, it is impossible to prove them under Section 48 Act 2 of 1855, though it would be otherwise under the Law of England.

Again it is said that both the Magistrate and the Sessions Judge have materially magnified and misinterpreted the evidence by which they profess to have been guided, by magnifying the offence charged against the prisoner as an influential Zemindar, and by heightening the value to be attached to indifferent evidence because the position and influence of the prisoner made it difficult for the prosecution to adduce better. There seems to me to be some ground for this statement on the face of both judgments. The Sessions Judge in the commencement of his judgment recites certain preliminary facts which he observes should be borne in mind in order to be in a position to form juster conclusions as to the truth or falsehood of the statements of the parties. He assumes that the proceedings taken against Muddun Dey, originated in the prisoner Joykissen Mookerjea extorting from him the sum of Rupees 250 being one fourth of the sum of Rupees 1000 supposed to have

been realized by Muddun on the sale of a house. Muddun is supposed to have been coerced into executing an engagement to pay this sum and this coercion to have been followed by the violent seizure of his goods. As to this seizure the Magistrate's conviction was set aside by the Sessions Judge and the further prosecution of the case appears to have been abandoned. At any rate, in the present proceedings, whether the seizure, by the prisoner described as a distraint, was within or beyond the law, we have no occasion at all to consider. But with respect to the coerced engagement for Rupees 250 the Sessions Judge appears mainly to rely on a *petition* of Muddun Dey and on a deposition of his wife Keenee now certainly the one document that is, the petition is no evidence, and the deposition of his wife speaking to an occurrence of which she had no personal knowledge, is no more than hearsay, and these papers cannot be suffered to substantiate facts upon which the Sessions Judge placed so much reliance.

The Sessions Judge states that he concurs with the Magistrate in his conclusions as to the authenticity of the letters produced by Judoonauth. The grounds of the Magistrate's conclusion with respect to the letters imputed to Nubokishto, Doorgapersaud and Issur Mookerjea. I have already discussed; but his remarks upon the letters imputed to Sreemunt. I have yet to notice. The Magistrate says, the witness, Sreemunt Rae, with a view to prove that such and such letters could not be in his handwriting, states that he was away till the middle of Phagoon, when, on his return he went to Madhubpoor. He goes on to say that the defendant, Joykissen, was there at or about that time; that besides himself, the Amlah with the Baboo were Doorgapersaud Mitter and Issur Chunder Sircar. Now the letter No. 1489, is dated the 10th Phagoon and purports* to be begun by Sreemunt Rae, finished by Doorgapersaud and directed by Issur Sircar, the very men whom the witness names as being present at Madhubpore." "Such is the Magistrate's des-

* This is the Magistrate's remark. It may be so; but I was unable to trace the fact in the letter.

cription of the evidence of Sreemunt, but it is very much at variance with the evidence itself. Observe the main fact asserted is, that on the 10th Phalgoon, at Madhubpore, Sreemnnt, Doorgapersaud and Issur Sircar were jointly concerned in the writing of one letter and this fact is supposed to be established by the evidence of Sreemunt. Now Sreemunt distinctly states that in the beginning of Poos he went to Shilo Doorgapore and that he did not return to Madhubpore till the last days of the Phalgoon, or the first days of Cheyt. Clearly this statement is not equivalent to saying that the witness was at Madhubpore, on the 10th Falgoon. Again the Magistrate supposes Sreemunt to say that his master Joykissen was at Madhubpore at or about the time he was there himself; but what Sreemuut really did say was that he forgot whether Joykissen was at Myapore or Madhubpoor, and that the two places were 24 miles (12 coss) apart. Clearly therefore the Magistrate's inference as to the corroboration of the letter from the deposition of Sreemunt, is based not on that deposition but on the misapprehension that he said something which he did not say.

Again, I observe that there is a cloud about the production of those letters. They are all denied by as many of the supposed writers as have been examined. They came professedly from the possession of Juddonauth but it is abundantly evident that Juddoonath had been in communication with Peary Lall regarding them, and that Peary Lall got Juddonauth to bring them, to the Deputy Magistrate, he himself being present that he might induce the Deputy Magistrate to receive them. Afterwards in his deposition Peary Lall dishonestly shuffled upon this matter and denied that he had seen the letters till they were filed in Court but no doubt appears to be entertained of the exactness of the Deputy Magistrate's representation of the occurrence. Now every body allows that Peary Lall bears the Petitioner, Joykissen Mookerjee, a grudge and upon the whole it appears to me so thick a cloud hangs over the production of the letters as to create an apprehension of falsification not to be counteracted except by positive and unexceptionable evidence.

Further I remark, that to my mind, as the record now stands, the circumstances attending the recovery of Muddun Dey, in the village of Gohaye are involved in mystery. His presence in that village is first announced in an English report of the Darogah of Doomjoor who transmits at the same time to the Magistrate a letter given to him by one Joynarain Huldar which letter purported to be written by Muddun at the house of Mohesh in Gohaye. This is all we know of the receipt of the letter by the Darogah. Joynarain has not been examined and we know not how the letter came into his hands. The Darogah when examined (on the 21st July) said as much time had elapsed that he did not recollect what Joynarain told him, as to the receipt of the letter. Now Muddun in his deposition says that one Gopaul Neogee, who had a difference with Mohesh but (never theless) always came about the house asked him for a letter and that he sent it by him to the Darogah. But again, Gopaul in his deposition denies taking the letter; and the fact remains that we know nothing of the mode by which the communication was effected.

Nor is this all, Bykunt Nauth, the police Mohurir deputed with the express instructions of the Magistrate to release Muddun, reached the village of Gohaye towards the close of the afternoon of the 25th May, attended by three Burkandazes, Joynarain Staldar and his own servant a boy. He took Joynarain with him, he says, as he knew Gohaye. Leaving the rest a little distance off, the Mohurir and one Burkundaz (both having, changed their dress) went to Mohesh's house, when he saw two durwans, one sitting, one lying down; and as the Burkandaz with him was a big man, the Durwans seemed frightened and he saw a blue cloth curtain hanging, the Mohurir made sure Muddun was there. One would suppose that if the durwans were frightened at the appearance of one man, they would have been much more frightened at the appearance of three more and that the Mohurir on this assurance would at once have brought up his party and searched for the prisoner. But the Mohurir making no use of day light he retires. About ten

o'clock, he places his people all about the house that no one may escape. Pudaruth Singh, a Burkandaz from a neighouring police station, joins him. He gets some Chowkeedars. He gets some ryots, and between one and two o'clock in that morning he again approaches Mohesh's door. Meanwhile nothing more is seen of the Durwans or indeed of any person on the premises. Even now the Mohurir does himself nothing; he advances Gopaul Neogee who enters by a door that a woman opens to him, and comes out attended by Muddun. At this time one of the durwans is seen inside. We are not told that any attempt whatever was made by the Mohurir to communicate with any person on the premises and the entire proceedings or the narrative of them seems to me a blind, offensive to common sense.

I think it necessary to notice only one or two points more of the argument addressed to me. It is said that the offence charged being abailable misdemeanour, it was not preceded upon a complaint made on oath, so as to give the Magistrate's Jurisdiction under Section 6 Regulation IX of 1857. Now without assenting to the statement that even with reference to this Section a complaint was not made on oath, I am not prepared to say that the Magistrate was not competent to proceed under Sections 3 and 4 of Regulation IX of 1807. These sections apply generally to heinous offences which may or may not be bailable. A large discretion appears to be allowed to a Magistrate in construing a heinous crime which may involve a dangerous breach of the peace or grave criminality, and process of arrest may issue when sufficient cause is shown upon the report of a Police Officer or upon other credible information. Here we have had a case asserted of forcible kidnapping which might end in any extremity, and the Law appears to me, to bring it within the cognizance of the Magistrate.

Again it has been contended that as by the Magistrate's own admission, the evidence for the prosecution had been completed by the beginning of the month of October, it was not competent

to the Magistrate to re-open the investigation on the production of the letters given up by one of the accused, Juddonauth. Now the proceedings which constitute a trial held by a Magistrate are not to be confounded with that form of trial by which cases are disposed of by a Session's Judge, and in which the evidence being previously procured first the witnesses for the prosecution are examined and then those for the defence. On the contrary, a trial before a Magistrate represents a series of advancing investigation by which according as facts are elicited and witnesses are traced the evidence available becomes gradually matured and recorded. In this there may be something of informality and occasionally something of hardship but referring especially to the case now before me, I am unable to say that the additional evidence taken by the Magistrate vitiated his conviction.

Besides these, other points noticed by the learned Counsel were not unworthy of comment and discussion. But having already indicated the conclusion to which I have come I need not enter, it appears to me, into further detail. To the reasons already given. I think the Petitioner Joykissen Mookerjee must be acquitted. I admit that the villany indicated by the letters justly rouses the indignation; but the villany which would convict them is deeper and taking the record as it comes before me I think the Magistrate's conviction must be set aside.

J. M. GAUMISSE, ENGLISHMAN PRESS.